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## Monterey, California



## THESIS

**AN ANALYSIS OF OUTSOURCING OF INSTALLATION  
SERVICES UNDER OFFICE OF MANAGEMENT AND  
BUDGET (OMB) CIRCULAR A-76**

by

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December 1999

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OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULAR A-76**

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Submitted in partial fulfillment of the  
requirements for the degree of

**MASTER OF SCIENCE IN MANAGEMENT**

from the

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## **ABSTRACT**

Office of Management and Budget (OMB) Circular A-76 details the process by which Government organizations manage and conduct commercial activity competitions. This research examined the requirements of OMB A-76 in terms of competitions within the Services the Department of Defense. This research looked at the application of OMB A-76 by commands during the period FY 1994 to present. Through a survey of contracting commands within the Army, Navy, and Air Force, the researcher looked at the nature of services that were being competitively sourced. Additionally, lessons learned were collected from the commands, augmenting published lessons learned from each of the Services. Risk identification and management within the A-76 process was also examined in the survey. The goal in conducting the research was to aid Marine Corps Contracting Officers in identifying a common family of services capable of being competitively sourced. A secondary goal was the identification of significant issues that contracting officers will face when implementing OMB A-76.



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## **I. INTRODUCTION**

### **A. PURPOSE**

This research will examine the policies and procedures prescribed in Office of Management and Budget (OMB) Circular A-76 for the outsourcing of support services on Department of Defense (DoD) installations. Specifically, the research will review and analyze previous outsourcing efforts to identify a common family of support services that are being competitively sourced. Specific lessons learned will be analyzed to identify significant issues that Regional Contracting Officers of Marine Corps installations may face.

### **B. BACKGROUND**

Since the early 1990s the Government, and specifically the Department of Defense, have turned their attention to the issue of commercial activities performed by the Government and competitively sourcing those activities. The driving factor in the renewed interest in competitively sourcing commercial activities is a defense budget which continues to shrink in regards to the amount of funds available for modernization and procurement. By competitively sourcing commercial activities aboard military installations, defense officials hope to funnel those

savings into the modernization and procurement budgets. The above situation is true for the Marine Corps and is a driving factor in the examination of commercial services capable of yielding cost savings. The leadership of the Marine Corps does not foresee any significant increase in the defense budget and has identified the following six prime drivers as the rationale in the search to save money 1) the reduction in current defense spending as projected future spending, 2) continued pressure on Budget from entitlement programs, 3) undiminished operations tempo and readiness requirements, 4) aging equipment and facilities, 5) increasing "Quality of Life" expectations, and 6) Marine Corps tradition of being good resource stewards. [Ref.1]

With the above stated goals in mind, Headquarters Marine Corps gave four mandates to the installations commanders of the Marine Corps. The mission mandate is to maintain the support to the Fleet Marine Force (FMF) and improve the quality of life for Marines and their families. Second, the funding mandate is to save \$370 Million by Fiscal Year (FY) 05 to go towards modernization, as well as save \$113 Million annually after FY 04. Mandate three is ideological in that commercial activities should be competitively sourced with the private sector whenever possible. The final mandate is related to warfighting and



the ability to free up Marines for reassignment to the FMF. [Ref.1]

Given the current budgetary constraints on defense spending and the mandates to maintain a well rounded force, the Marine Corps is looking to competitively source commercial activities for the first time since the 1980s. A facet in the drive to reform the business practices of Marine Corps installations is the application of OMB A-76 in studying and competitively sourcing installation support services. [Ref.1] Given the nature of the competition prescribed in OMB A-76, outsourcing is now referred to in DoD circles as "competitive sourcing". This change in terms applies strictly to competition under the auspices of A-76 and does not include the privatization of Government functions. Competitive sourcing looks not only at commercial sources to perform services, it also incorporates the ability of installations to reform their organizations and "right size" organizations for optimal performance as well as having other organizations in the Government perform the activities. Since the Marine Corps has not competitively sourced commercial activities to any great extent, the answers to the following research questions may aid the Regional Contracting Officer in this relatively new endeavor.

### C. RESEARCH QUESTIONS

The primary research question was: "What are the significant issues that Marine Corps Contracting Officers face when applying OMB Circular A-76 to the outsourcing of installation support services, and how might they manage these issues?" The subsidiary questions were:

1. What are the policies and procedures prescribed in OMB Circular A-76 for outsourcing of inherently non-Governmental functions.
2. What is the nature and scope of installation support services that are currently being outsourced in the DoD?
3. Is there a common family of installation support services across DoD, which is currently being outsourced, and if so, what services comprise that family?
4. What are the significant lessons learned from the outsourcing efforts that will be applicable to Marine Corps outsourcing of installation services?
5. What are the significant risk factors identified in the contracting of services and how might these risks be mitigated by Marine Corps Contracting Officers?

#### **D. SCOPE OF THESIS**

The audience for this thesis includes policy makers within DoD and the Marine Corps, and Regional Contracting Officers assigned to Marine Corps installations. This thesis addresses the requirements of OMB A-76 to the competitive sourcing of non-Governmental functions that support DoD military installations. It will look at the procedural requirements of OMB A-76 for the competitive sourcing of installation support services, including restriction on outsourcing of certain services, competition with in-house organization, the A-76 study process and identify those classification of services which OMB states are non-Governmental. This thesis will research the prior competitive sourcing efforts under OMB A-76 to identify a common family of services that have been competitively sourced, as well as services traditionally kept within the scope of the Government. By looking at past experience and the lessons learned from competitively sourcing efforts, a common set of issues will be identified that Marine Corps Regional Contracting Officers may face in the coming years as the requirements to save money on installation costs increase. In addition to the lessons learned, the thesis will also look for significant risk factors that must be mitigated by the Regional Contracting Officers to

successfully and competitively source installation support services. This thesis will benefit the Installation Commander and the Regional Contracting Officer by identifying services that lend themselves to competitive sourcing as well as potential issues.

#### **E. LIMITATIONS**

The focus of the thesis is competitive sourcing of installation support services. As such it will not delve into the arena of privatization of non-Governmental functions aboard DoD installations. The competitive sourcing of maintenance operations at military depots will also not be addressed as it falls outside of the scope of the primary and secondary research questions.

#### **F. RESEARCH METHODOLOGY**

The methodology used in this thesis will focus on an in depth examination of past competitive sourcing actions by the Department of Defense. A comparison and contrast of competitive sourcing efforts across the spectrum of DoD will generate a consolidated view of previous competitive sourcing efforts. The consolidated data from previous experiences will then be applied to those questions focused on process improvement for competitive sourcing of installation support.

Data are collected in two forms. The first is a

literature review from the Dudley Knox Library and the World Wide Web. The literature review provides the researcher with background information in current policies and practices, to gain an understanding of previous competitive sourcing efforts throughout DoD.

The second type of data collected focuses on interviews and surveys with acquisition and installation reform officials within the Office of the Secretary of Defense, as well as each of the Services. Interviews with Headquarters Marines Corps Installation Reform Branch will provide information in the driving factors behind the Marine Corps efforts in competitive sourcing. The interviews with installation contracting officers and other Service contracting organizations is meant to gather information on lessons learned and risks associated with the competitive sourcing process delineated in OMB A-76.

#### **G. BENEFITS OF RESEARCH**

This thesis is designed to benefit the Installation Commander and the Regional Contracting Officer in efforts to competitively source installation support services. By drawing from lessons learned at individual installations across DoD as well as in litigation, common pitfalls can be identified for the Contracting Officer. The end result will be a thesis capable of being one of many information tools



used by the Contracting Officer when competitively sourcing commercial activities at Marine Corps installation.

#### **H. ORGANIZATION OF THESIS**

The research will be divided into five chapters. This chapter provides the objectives of the research, the scope of the research and questions to be answered.

Chapter II provides background information on competitive sourcing policies and procedures prescribed by OMB A-76 and Congress. Additionally, the restrictions to competitive sourcing of inherently Governmental functions and other functions delineated by Congress will be examined.

In Chapter III, the data collected on past experience of competitive sourcing within DoD will be presented. It will look at the number of A-76 studies undertaken. In doing so, the focus will be on the nature and scope of services that were competitively sourced. The competitive sourcing efforts of each of the services will be examined in order to identify a common family of services that have been previously outsourced. The next section of the chapter will focus on the lessons learned from previous competitive sourcing efforts of each of the services. In addition to formal lessons learned litigation and protests from previous competitive sourcing efforts will also be scrutinized. The results of a survey of contracting commands will also be

presented focusing on field experience with lessons learned and risk management.

Chapter IV will present the analysis of the data in Chapter III. The focus of the analysis will be on the process of A-76 and the impacts it has on contracting. The management process will be examined from the leadership and contracting perspectives. The chapter will identify risks associated with the common family of services identified in Chapter III. The contract type used in competitive sourcing will also be examined for possible impact on the nature and amount of risk that installation commanders must accept. The last portion of the chapter will focus on those risk management tools that can be applied to competitive sourcing of installation support services.

The final chapter summarizes the conclusions made, makes recommendations to Marine Corps Regional Contracting Officers regarding the common family of services and risk management tools and identifies areas of further research.

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## **II. BACKGROUND**

### **A. DRIVING FORCE BEHIND COMPETITIVE SOURCING**

Prior to the end of the Cold War, the budget for the Department of Defense began to shrink. The fall of the Berlin Wall, symbolic of the Communist "Iron Curtain" added momentum to the downsizing of the military. Since the fall of the Former Soviet Union, DoD has reduced the number of active duty military and civilian personnel, closed or realigned military installations and reduced the amount of money spent on procurement, operations and maintenance. Today DoD finds itself in the situation where the defense budget continues to shrink, with little hope in sight of budgets dramatically increasing.

Given a finite amount of funding for operations, procurement, readiness and installation operation, DoD has had to look for methods of squeezing more out of every dollar appropriated. With the current budget reductions, the logical choice is to reduce the amount of money spent on the infrastructure while maintaining money for procurement and operational readiness. This has meant that the Services are looking to their installation commanders to yield savings to make up for shortfalls in funding for procurement, operations and maintenance.

The driving force behind these cost savings initiatives has been expressed on numerous occasions by leaders within the Government and DoD. The Quadrennial Defense Review proposed improving the efficiency of the DoD through number of actions to include streamlining, reorganizing, downsizing, consolidating, computerizing and commercializing operations.[Ref. 2:p. 15] Streamlining of operations and revolutions in business practices are not isolated to just the Department of Defense. The National Performance Review attempted to streamline operations throughout the Federal Government. Vice President Gore has been a driving force in the effort to reduce the bloated Federal Government in general. For DoD this has meant renewed interest in competitively sourcing commercial activities that are not inherently governmental.

#### **B. POLICY ON COMPETITION WITH PRIVATE SECTOR**

The origin of the current DoD competitive sourcing policy dates back to 1955 when the U.S. Government created a precedent that it should not compete with private industry in providing goods and services. Promulgated in 1966, the Office of Management and Budget Circular A-76 outlines conditions in which the Government would rely upon the private sector for provision of goods and services that are not inherently public or governmental in nature. [Ref. 3:p.

9] The guiding principle within OMB Circular A-76 is the belief that the United States Government should not compete with the private sector to provide goods and services. Specifically the policy is:

In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of the principle, it has been and continues to be the general policy of the Government to rely on commercial sources to supply products and services the Government needs.[Ref. 4]

The Government does recognize that there are certain functions that it must perform and these, "inherently governmental functions" are "so intimately related to the public interest as to mandate performance by Governmental employees." [Ref. 5] Appendix C lists those functions considered to be inherently Governmental by the Office of Federal Procurement Policy.

In addition to OMB Circular A-76, Congress recently enacted the Federal Activities Inventory Reform Act of 1998 (FAIR Act) to address the issue of Government performance of commercial activities. The law requires that the head of each executive agency shall submit to the Director of OMB, a list of activities performed by Federal Government sources for the executive agency, which in their opinion are not



inherently Governmental functions. [Ref. 6] The FAIR Act stops short of mandating that the Government outsource commercial services, but the intent is obvious. Even with the policy set forth in OMB A-76 and the FAIR Act, the DoD and the military departments and Services continue to find they are competing in many areas with private industry to provide basic services at military installations. In cases where OMB A-76 has been applied and services were competitively sourced, the application of the process, across the military services, has been far from uniform or comprehensive.

#### **C. DoD OUTSOURCING 1978-1994**

During the period from 1978 to 1994 DoD undertook a large number of A-76 studies to consider the use of competitively sourced labor to meet military installation requirements. Following the guidelines established in A-76, each of the Services set out to identify commercial activities capable of being competitively sourced, develop a Most Efficient Organization (MEO) and then compete that against the commercial sector as required. During the period FY 1978-1994 there was a total of 82,646 positions in commercial activities subject to cost comparison studies (17,632 of those positions were military). As a result of these cost comparison studies, 46,103 positions were

converted to contract.[Ref. 7:p. 20]

The majority of the cost comparison studies reflected in the above statistics occurred during the early 1980s. What is not shown is that a significant number of those competitions were held during the middle to last half of the 1980s and that, starting in 1990, competitions dwindled. Chart 2-1 depicts the total number of cost comparisons that were completed by the Services during the period FY 1978-1995 and the drop in competitive sourcing starting in 1990.

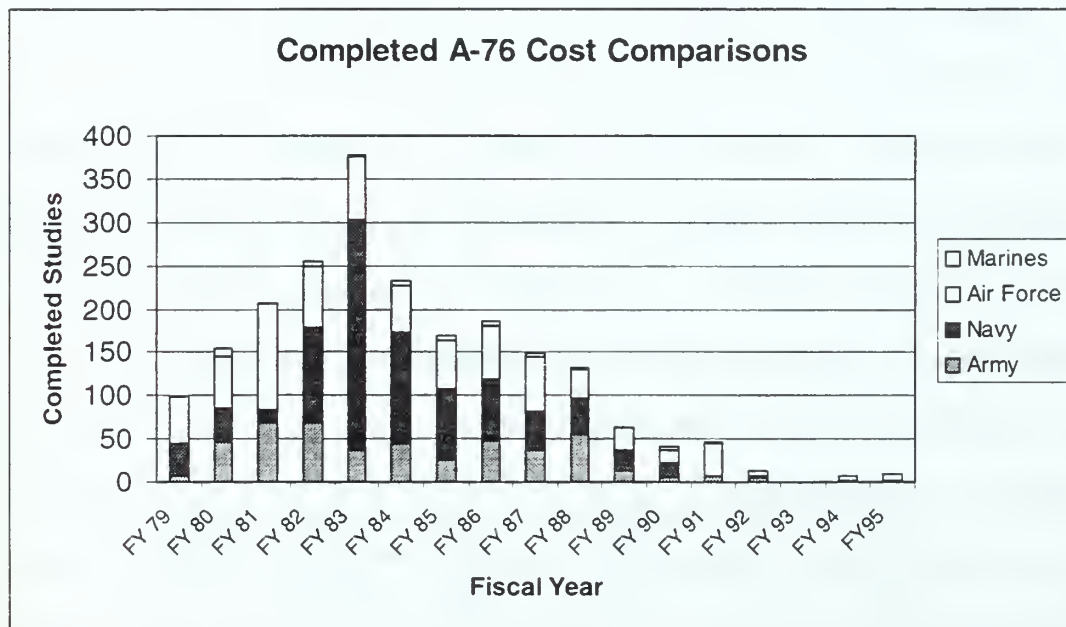


Figure 2-1. Completed A-76 Cost Comparisons Source [Ref. 7:p. 26]

Evident in the chart is the fact the DoD allowed the competition of commercial activities to dwindle starting in FY88. In FY89 the number of competitions completed was cut in half from the previous fiscal year's competitions. It was not until the FY95 that DoD again took a serious look at

implementing A-76 as a cost savings measure.[Ref. 8:p. 4]

For the Marine Corps, the application of OMB A-76 and performance of commercial activities studies has always been small in comparison to the other Services. During the period FY 1978-1995, the Marine Corps completed only 44 commercial activities studies. The Marine Corps basically ceased the conduct of the studies in FY88 (except for three studies in FY90 and one in FY91). Until the most recent competitive sourcing studies were announced as part of the Installation Reform Business Plan, seven years has elapsed since the Marine Corps last conducted an A-76 study.

The rise in competitive sourcing in the last four years is a result of the renewed interest in reducing installation costs to channel savings into other accounts. Table 2-1 contains the expected number of commercial activity positions that will be competed.[Ref. 9:p. 5]

Component	Fiscal Year					
	1997	1998	1999	2000	2001	2002
Army	13173	13484	13477	8146	8138	0
Navy	10500	15000	20000	20000	15000	0
Air Force	13367	21195	18494	10107	0	0
Marine Corps	0	800	1700	1700	800	0
Total	37040	50479	53671	39953	23938	0

Table 2-1. FY 1997-2002 Projected Competitions

Currently, DoD is projecting to compete over 200,000 positions among the four Services for the period FY 1997-FY2002.

#### **D. A-76 PROCESS**

In applying A-76 to any competitive sourcing action there first must be a determination as to the nature of the services to be studied, and whether it is commercial in nature. As stated, there are certain functions that are inherently Governmental in nature or restricted from competitive sourcing by law or executive decision. The decision whether a function is inherently Governmental rests on a number of factors including the level of governmental control, the ministerial nature of the function, and distinguishing between recurring operations and oversight. [Ref. 10] The Office of Federal Procurement Policy does provide guidance as to what services are considered to be inherently governmental in nature.

The second consideration in the application of OMB A-76 to activities that are considered commercial in nature is whether there is a need for a cost comparison to convert the activity to or from in-house, contract or Inter Service Support Agreement (ISSA). There are nine situations where cost comparison are not required, including services in the following categories:

1. National Defense or Intelligence Security.
2. Patient Care.
3. Core Capability - Generally related to technical

capabilities.

4. Research and Development.
5. No Satisfactory Commercial Source Available
6. Functions with 10 or fewer Full Time Employees (FTE). For functions with 11 or more FTE a cost comparison is not needed if a fair and reasonable price can be obtained through competition and all affected Federal employees are reassigned to other comparable positions.
7. Current performance by Government exceeds generally recognized industry performance and cost standards.
8. Temporary authorizations for in-house performance.

In cases where a cost comparison is required, the guiding document in the conduct of the cost comparison is OMB A-76. The majority of writing in the 1996 Supplement to OMB A-76 is devoted to the development of the cost comparison for the commercial activity.[Ref. 10] The cost comparison is the basis through which the competition process will be implemented. Additionally, it forms the framework through which a final decision is made as to the disposition of a commercial activity. In cases where a cost comparison is required, there are six major steps to the cost comparison that must be completed, including the



following:

1. Development of a Performance Work Statement (PWS) and Quality Assurance Surveillance Plan (QASP).
2. Performance of a Management study to determine the Government's Most Efficient Organization (MEO).
3. Development of the in-house Government cost estimate.
4. Issue the Request for Proposal (RFP) or Invitation for Bid (IFB).
5. Comparison of the in-house bid against the proposed contract or Inter-service Support Agreement price.
6. Administrative appeal process to assure all costs entered on the Cost Comparison Form are fair, accurate and calculated in accordance with requirements of A-76.

The first step in the cost comparison is the development of the Performance Work Statement (PWS) and the Quality Assurance Surveillance Plan (QASP). The PWS defines what is being requested, the performance standards and measures and timeframes of performance. It is developed in such a manner as to ensure that it does not limit service operations, arbitrarily increase risk, reduce competition, violate industry service or service group norms or omit



statutory or regulatory requirements. The PWS is performance-oriented, stating what outputs or measures are desired as well as limiting directions, yet does not indicate to the supplier how a service should be accomplished.[Ref. 10]

The QASP is designed to compliment the PWS in that it describes the methods of inspections to be used, the reports required and the resources to be expended. The QASP does not need to be published in the solicitation nor is it given to Government employees developing the management study. Competing sources, to include the management plan, are expected to develop a Quality Assurance Plan based solely on the requirements outlined in the PWS.[Ref. 10]

The development of the Management Plan detailing the Government's Most Efficient Organization (MEO) is the next step in the cost comparison process and is the basis for the Government's in-house cost estimate. The Management Plan reflects the scope of the PWS and should identify the organizational structure needed to meet the outlined requirements. The Management Plan documents the best structure, staffing, and operating procedures, equipment, and inspection plans to ensure that the in-house activity is performed in an effective and cost efficient manner. [Ref. 10] Additionally, the Management Plan must document the

assumptions used in developing the MEO and in-house cost estimate, including the assets of the organization, Quality Assurance Plan, Transition Plan and the in-house cost estimate.

The next step in the cost comparison is the issuing of the solicitation through appropriate channels. The solicitation is done in accordance with the FAR, Service regulations and any other applicable statutory requirements. Depending on the nature of the services being competitively sourced, either an Invitation For Bid (IFB) or a Request For Proposal (RFP) can be used. The proposals received are treated the same as those received for any other competition with regard to the security of each offer submitted.

The fifth step in this process is comparison between the in-house bid and the proposed contract or ISSA price. In the case of sealed bids, the contracting officer opens all bids, to include the in-house estimate and enters the prices on the cost comparison form. A tentative decision is announced based on these data, subject to evaluation for responsiveness, and responsibility.[Ref. 10] In the case of a negotiated or best value procurement, the most advantageous private sector or ISSA proposal is compared against the in-house estimate on the Cost Comparison Form and an award is made as required.

The final step in the cost comparison process is the resolution of any protests by unsuccessful offerors, whether they be private sector, ISSA or an in-house organization. This is the same challenge faced by all contracting officers, regardless of the nature of the procurement. As part of the policy of promoting free and open competition, there are no steps that contracting officers can take to mitigate this final step.

#### **E. BENEFITS OF A-76**

In reviewing the competitions completed by DoD during the period FY 1978-1994, the results of the competitive sourcing studies support the notion that the Services can save money by applying A-76. In cases where the application of OMB A-76 resulted in competition between the private and public sector, there were associated cost savings varying from 27% to 36%, regardless of whether the work was kept in-house under the MEO or contracted out to private industry. Table 2-2 shows the savings from A-76 competitions held during the period of 1978 to 1994:

Service	Competitions	Total Annual	Percent
	Completed	Savings	Savings
		(millions of FY 96 dollars)	
Army	510	470	27%
Air Force	733	560	36%
Marine Corps	39	23	34%
Navy	806	411	30%
Defense Agencies	50	13	28%
Total	2138	\$1,478	31%

Table 2-2. FY 1978-1994 A-76 Savings Source [Ref. 11:p. 8]

Table 2-2 shows that a benefit of the competitive sourcing process is the ability of the commercial sector to take advantage of two factors; the ability to efficiently utilize available labor, and economies of scale. In the past, competition was not controversial and there was only moderate motivation to reduce operating costs. However, competition is the key to successful application of A-76. As such, Table 2-2 should not be interpreted to imply that cost savings are not realized if the commercial activity remains in-house. In cases where the in-house MEO is the successful bidder, the MEO reflects a streamlined Government operation with fewer employees capable of providing the same level service for less money. In this case, there is a motivation factor, as the MEO must be able to perform at the stated level of capability and within the given budget, or they run the risk of being competitively sourced again.

Given the relatively small number of positions that were competitively sourced in DoD (approximately 46,103 positions), it is too early to speculate whether a wider application of A-76 will yield the same results. There are questions whether DoD will experience the cost savings that have been projected in the latest round of competitive sourcing initiatives. By the end of FY 03 DoD is projecting to save approximately \$2.5 billion annually. The question is whether these savings will actually materialize. In a March 1997 report, the General Accounting Office (GAO) questioned the savings projections of DoD. [Ref. 12:p. 6] GAO pointed out that neither DoD nor OMB has reliable data upon which to assess the accuracy of the savings estimates. They point out a number of contributing factors that may diminish projected savings, including mandated wage increases and poorly written Performance Work Statements. GAO also cited reviews by the Naval Audit Service, that show projected savings, but not as much as originally projected. [Ref. 12:p. 10]

In addition to the concerns noted by GAO, a RAND Corporation study also points out the potential for contractor "low-balling" during the bidding process. [Ref. 7:p. 48] Additionally, this study points out that after the first few months of contractor operations, deficiencies in



the PWS are often revealed, requiring contract modification and price adjustment.[Ref. 7:p. 48] Although there are questions as to whether the projected cost savings can be realized, it is evident that some level of savings will be achieved through the application of A-76.

#### **F. A-76 APPLICATION ISSUES**

Prior DoD experience with competitive sourcing has yielded savings. Yet, despite success with A-76, there are a number of problem areas that affect widespread application. These problems are resident in the circular, institutionalized in each of the Services, and in some cases, are imposed by DoD or Congress.

One of the fundamental issues that surfaces when reviewing OMB A-76 and its application is the definition of "inherently Governmental functions" and what functions should be open to competitive sourcing. OMB A-76 lists numerous functions within several broad categories that qualify as commercial services. As noted, the comprehensive list of eligible commercial activities is provided in Appendix B.

Suffice it to say, there is no consensus among the individual Services or even installation commanders as to what constitutes a commercial activity or an inherently Governmental function. This fact is highlighted in a



General Accounting Office (GAO) report to Congress, which points out "...DoD does not have a generally accepted definition of base support activities, and the services differ on how they define base support activities". In this study, GAO reported that the Army had identified 122 functions as base support, the Navy through the Center for Naval Analysis had identified 37, while the Air Force and the Marine Corps did not have a standardized definition of base support operations. [Ref. 12:p. 23]

However, the definition of commercial activities may be changing with the requirements to compile lists of commercial activities on a yearly basis in accordance with the FAIR Act. Additionally, there is a small but growing movement among the Services to consolidate the lists of commercial activities across major commands and installations.

Even with a clearer definition of commercial activities, commands still face the challenge of conducting the commercial activity studies. Recent changes within A-76 have shortened the time period to conduct studies of in-house performance. Currently, single activity studies must be completed within 18 months, while multi-service studies have 36 months to be completed. These timeframes are ambitious considering past DoD performance in completing the

studies. On average 4 years and 3 months have been required to complete an A-76 study (during fiscal years 1987 to 1990). [Ref. 12:p. 17] It is unclear what impact, if any, shortening of the timeframe will have on the conduct of the studies. Reviews of the limited number of studies completed in the last few years show there has been an improvement in the time required to complete studies. Yet there continues to be isolated problems in terms of starting and completing studies in the required timeframe. [Ref. 13:p. 9]

The greatest concern that the Services face in completing the studies on time is the availability of personnel to conduct the studies. In the past, the majority of studies were conducted using in-house staff. OMB reports that continued downsizing of military forces, both uniform and civilian, has meant that there are fewer personnel familiar with the A-76 process capable of conducting the studies. To help alleviate this problem, all of the Services have reviewed the option of outsourcing parts of the A-76 study while retaining the in-house cost estimate work and other inherently Governmental functions as they relate to the A-76 process. [Ref. 12:p. 17]

Manpower issues extend beyond the availability of personnel. In cases where there is sufficient experience and manpower to conduct the study, there is a further impediment

of not having civilian employees who want to work on the study. In site visits to several installations, the RAND Corporation found that functional managers had a difficult time getting experienced civil service employees to participate in developing the PWS.[Ref. 7:p. 49] The reasons for the difficulty in getting civil service participation vary from concern over the fact that their jobs may be outsourced, possibly leaving them in the ranks of the unemployed, to concern over being labeled a "procurement official." Legal restrictions exist preventing displaced employees from going to work for the contractor who wins the contract for two years if an employee participates in the study in such a manner as to be considered a "procurement official." Given such restrictions, and the fact that employees may lose their jobs, there is little incentive for employees to volunteer for the A-76 process. [Ref. 7:p. 49]

Another of the institutional impediments relates to uniform Service personnel and the impact they have on the competitive sourcing process. One fear base commanders have is that they will lose control over the performance of commercial services aboard their installations, and the individual service member and his or her family will suffer. Instinctively, base commanders feel the need to be in charge and are unwilling at times to have to negotiate with

contractors to get something done that is not within the scope of the PWS. Commanders are accustomed to being able to delegate duties and give orders knowing that those orders will be carried out without question on issues related to contract ramifications and cost. GAO reports that,

...Relatively short tours of duty of base commanders limits institutional knowledge and often results in focusing on short term projects and not major changes in base operations involving long term planning and implementation.  
[Ref. 14:p. 13]

Another impediment originating in the circular itself, deals with the process of analyzing the Government activity and then comparing it to potential competitors. The circular mandates that the Government organization compete against the offerors based on the actual cost of performing the given function. Currently, for a commercial activity to be awarded to a contractor, the bid from that contractor must meet a savings threshold of 10 percent of personnel costs or \$10 million over the performance period. [Ref. 13:p. 24] In cases where the threshold has not been met, the activity remains in-house. In best value procurement, trade-off factors are evaluated between the contractor and the Government. In cases where the MEO does not meet the performance levels of the contractor, the MEO modifies its operation and bid to meet the best value criteria, and then

costs are compared again.

Additionally, the supplement to OMB A-76 provides guidance in calculating these cost. However, it is far from comprehensive and often is silent on calculating some costs that installations face. With no standard currently used to measure Government operating costs, DoD has looked to implement Activity Based Costing as a process for capturing the costs of performing commercial activities. Measurement of costs is not standardized across DoD, and since the military in the past has not been required to track costs, the Services do not have a good understanding of how to accomplish this task. A GAO report in 1998 reiterated this fact in stating.[Ref. 12:p. 9]

The ability to accurately capture costs is tied into the development of the PWS, as it defines what costs must be captured and included in the competitive proposal submitted by the MEO. The primary questions are: what method does a particular command use to capture costs, and does the method truly capture the total costs of providing a particular service? Reviews of services that have been contracted are mixed in terms of the ability of the Government to accurately capture costs through the development of a comprehensive PWS. In some cases, there are hidden costs that were not accounted for due to a poorly constructed PWS,



which increases the total cost of the contract once it was awarded to a contractor. In other cases, the cost of the competitive sourcing did not increase and the projected savings were attained. A critical factor is the completeness of the PWS in its ability to capture all of the work that the Government expects to be performed. [Ref. 7:p. 48]

Development of the Performance Work Statement (PWS) is critical to the success of the competitive sourcing of commercial activities as it sets the groundwork for the entire process. The definition of the PWS is as follows:

A Performance Work Statement is a statement of the technical functional and performance characteristics of the work to be performed, identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units. It serves as the scope of the work and the basis for all costs. [Ref. 10]

The Performance Work Statement has, in the past, been difficult to prepare. It requires putting a team of military and civil service employees together to capture the specific requirements of commercial activity in writing. As the PWS serves as the basis upon which proposals will be evaluated against, as well as to be used by the Government in developing the in-house estimate and MEO, it must accurately reflect all activities involved in the operation.



Unfortunately, in some cases the teams writing the PWS have been poorly trained in the construction of legal documents and unfamiliar with writing requirements. This resulted in poor criteria upon which to evaluate proposals. More importantly, it left the Government vulnerable to poor performance, possible legal action and potential cost increases.

Additionally, there is the potential for misrepresentation on the part of A-76 team members in an effort to keep their jobs. [Ref. 15] It must be pointed out that the probability of A-76 team members sabotaging the process is unlikely, but it must be considered. Oversight by the Contracting Officer during the development of the acquisition strategy is the primary place one would expect to catch discrepancies in the PWS.

The final area to be examined is the legal restriction to outsourcing specific services and the desire of the Services to not surrender part of their "kingdoms". Specific legal restrictions include the prohibition against outsourcing fire fighting and policing services aboard installations. Additionally, there are congressional mandates that a given percentage of work done in the military's depot maintenance facilities be performed by Government employees. [Ref. 11:p. 9]

Other legal restriction have appeared in the past in language written into defense authorization and appropriation laws specifically forbidding the use of funds for the competitive sourcing of activities. For example, the National Defense Authorization Acts of 1993 and 1994 placed broad restrictions on the contracting of commercial activities through competitive sourcing. The 1993 language stated:

The Secretary of Defense may not, during the period beginning on the date of enactment of this Act [October 23, 1992] and ending on September 30, 1993, enter into any contract for the performance of a commercial activity in any case in which the contract results from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 or any successor administrative regulation or policy. [Ref. 7:p. 24]

Although there continue to be numerous restrictions on which activities may be studied, in recent years this has been lessened since there has been a greater DoD push to examine the benefits of competitive sourcing. [Ref. 7:p. 25]

The Defense Authorization Act for Fiscal Year 1996 introduced several new restrictions and provisions. These generally seem more outsourcing-friendly than provisions found in earlier years Defense Authorization Acts.... [Ref. 7:p. 25]

#### **G. SUMMARY**

Given the continued shrinkage of the defense budget and

the likelihood that this trend will not change markedly in the near future, DoD is faced with a situation where it must save money on installation costs. It is unlikely that Congress will allow another round of Base Realignment and Closures to aid in reducing the number of installations and operating costs. Therefore, the Services must look to other means to achieve the savings. The logical choice is to utilize A-76 to take advantage of the competitive market economy and use competition to reduce operating costs.

Past A-76 competitions have yielded cost savings for DoD. Although there continues to be speculation about whether DoD can achieve projected savings, there is no doubt that a substantial level of savings may be achieved.

The question then becomes how do Installation Commanders and their Contracting Officers take full advantage of the A-76 and its ability to save on operating costs? Chapter III will review recent competitive sourcing actions by DoD in an effort to find a common approaches which Contracting Officer can use. Given the fundamental shift in attitude towards competitive sourcing in DoD, the most recent competitive sourcing activities starting in 1994 will be analyzed in Chapter III.

### III. METHODOLOGY AND DATA PRESENTATION

#### A. INTRODUCTION

The purpose of this chapter is two-fold. First it will describe the methodology employed in conducting the survey for this thesis. Secondly, this chapter will present a summary of the data collected from both the survey and other sources. An analysis of the data will be presented in Chapter IV.

A survey was conducted to obtain data that would supplement the available literature in answering the research questions presented in Chapter I. Data from sources other than the survey included databases of competitive sourcing studies on the World Wide Web, protest actions and legal proceedings, and lessons learned available on the World Wide Web.

The focus of the survey was to obtain feedback from contracting commands that are currently undergoing or have recently completed A-76 studies. Contracting commands were solicited to provide responses on a non-attribution basis. The data sought related to the nature of commercial activities that were looked at for competitive sourcing, lessons learned from those competitive sourcing actions, and identification of potential risk factors associated with the

A-76 process that could jeopardize contracting activities. The questions asked were formulated to assist in compiling a list of services that could easily be competitively sourced, having been done in the past by other Services. In addition to looking for a common family of services, common lessons learned hopefully tied to the family of services were sought. The final aspect of the survey was the identification of risk factors that a Contracting Officer must address when conducting a competitive sourcing program.

## **B. METHODOLOGY**

The base population for the survey was contracting commands within the uniformed Services of the Department of Defense. Each of the Services (Army, Navy and Air Force) were contacted regarding participation in the survey. In all, there were a total of 70 commands that were solicited for input. There were 10 surveys sent to Army commands, 24 to Air Force commands, and 36 sent to Navy Commands. Of those 70 commands that were surveyed there were a total of 22 responses (31 percent of the population)<sup>1</sup>.

A number of organizations that were excluded due to the nature of the primary and secondary research questions presented in Chapter I and included the following

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<sup>1</sup> Of the Services solicited, 50 percent of the Army and Air Force commands responded, while the Navy response was 14 percent.



organizations:

1. Defense Logistics Agency (DLA)
2. All non-Service related intelligence commands  
(i.e., Defense Intelligence Agency)
3. Depot Maintenance Organizations
4. Defense Commissary Agency (DECA)
5. Defense Finance and Accounting Service (DFAS)
6. Service organizations that had yet to complete  
work on the construction of Performance Work  
Statements

#### **C. DATA SUMMARY**

The data summary will be presented in two parts. The first section will present the data obtained through the survey of contracting commands. The second part will present the data obtained from literature and sites on the World Wide Web. Both section of data presentation will generally follow the line of questioning presented in the survey (see Appendix D).

##### **1. Data Collected From Survey**

This section will address data collected as a result of the survey that was sent to officials who had completed or were currently conducting the later phases of A-76 studies.



## Survey Questions.

**1. Since 1994, how many competitive sourcing studies of commercial activities has your command undertaken? [100% Responded]**

This question along with the second question were designed to determine a given command's level of experience with the A-76 process.

All of the respondents answered this question, with only two respondents stating that their commands had not undertaken any A-76 studies during the time period in question. Of the Air Force respondents there were a total of 47 A-76 studies completed or in progress. Army respondents indicated that 22 studies were completed or currently being conducted. The Navy respondents had completed or were in the process of completing 44 studies.

**2. Of the commercial activities studied, how many resulted in competition between the Most Efficient Organization (MEO) and a contractor or Inter Service Support Agreement (ISSA)? How many were directly converted? [100% Responded]**

As for the preceding question, this question was designed to gauge the level of experience of the

respondents in areas of cost comparison and direct conversion of commercial activities. The cost comparison and direct conversion data for all of the respondents is in the below table.

Respondent	Cost Comparison	Direct Conversion
1	1	3
2	0	6
3	0	0
4	1	1
5	1	2
6	3	2
7	0	4
8	0	2
9	0	1
10	1	0
11	4	3
12	2	5
13	0	0
14	0	1
15	3	0
16	0	0
17	6	7
18	19	5
19	0	0
20	0	0
21	0	1
22	1	0

Table 3-1 Responses To Survey Question Two

In the case of respondent #19, they stated that the command had taken the position that they would not pursue A-76 as the sole method of reducing costs, instead focusing on other methods of business reform. Additionally, the respondent stated that their funding came from the Service and the Director of Central Intelligence (DCI) which precluded them from exercising

control over the funding to achieve cost avoidance/savings.

**3. What group within your organization determined which commercial activities would be opened to competition? [100% Responded]**

This question was designed to highlight which organization or person within the Services is designating the functions to be looked at for competitive sourcing and the level of commitment by the organization. The response of each of the participants is located in Table 3-2.

Respondent	Organization Directing Studies
1	Manpower Organization
2	Major Command Organization
3	Wing Commander
4	Major Command Organization
5	Manpower Organization
6	Wing Commander
7	Higher Headquarters
8	Wing Commander
9	Director of Business Operations
10	Major Command Organization
11	Manpower Organization
12	Contracting Officer
13	Installation Commander
14	Installation Commander
15	Major Command/Installation Commander
16	Installation Commander
17	Major Command/Installation Commander
18	Major Command Organization
19	Organization Commander
20	Major Command Organization
21	Major Command Organization
22	Major Command Organization

Table 3-2 Responses To Survey Question Three

In the case where the responses indicated that the Manpower Organization determined eligible commercial activities, there were zero indications as to whether this Manpower Organization was located at the installation or major command level.

**4. Does your organization have a list of commercial activities that are excluded from competition?**

**[95% Responded]**

The intent of this question was to gauge the willingness of the commands to competitively source commercial activities. The original goal was to have commands provide input confirming the existence of restricted lists and then provide input as to the originator of the lists. Unfortunately, the question was not worded in such a way as to elicit responses indicating the origins of such lists in cases where they exist.

In the case of respondents #8, #17, #20 and #22, they expanded on their answers by stating that their commands adhere to restrictions resident in public laws and OMB A-76. Respondent 9 indicated that switchboard operations were looked for inclusion on the procurement list for the National Industries for the Blind, but did not state whether the services were set aside for

restricted competition. Each of the responses is summarized below in Table 3-3.

Respondent	Organization Directing Studies
1	No
2	Yes
3	Respondent Uncertain
4	No
5	Respondent Uncertain
6	No
7	No
8	Yes
9	Yes
10	Yes
11	Yes
12	Respondent Uncertain
13	<b>NO RESPONSE</b>
14	Yes
15	Yes
16	Yes
17	No
18	Yes
19	Yes
20	Yes
21	No
22	Yes

Table 3-3 Responses To Survey Question Four

In the case of respondent #19, they listed several functions that were precluded from competitive sourcing including intelligence-related activities, financial management, and contracting, senior level management. Respondent #21 stated that no list existed, but that functions are evaluated on a case by case basis when a function is nominated for study.

5. What was the general nature of services that were competitively sourced (i.e., facilities maintenance,

**base operations)? [100% Responded]**

The purpose behind this question was to seek data on the general nature of services that are being examined for competitive sourcing. The goal was to see if a common thread exists in the general nature of services that were competitively sourced. The question was also designed to help the researcher in determining if there is a common family of services that could be competitively sourced with relative ease.

The information in Table 3-4 lists the responses to this question. As respondent #19 is not undertaking OMB A-76 studies at the present time, their response is indicated as not applicable.

In looking at the response it appears that the question caused some confusion with the respondents as to the type of answers that were being sought. A number of the respondents stated the actual services that were being competitively sourced vice the general category e.g., Base Operating Support. As such, the responses are reported as they appeared on the returned survey forms.



Respondent	General Nature of Services Studied
1	Base Library, Telephone Operations, Base Education & Training, Military Family Housing (MFH) Maintenance
2	Nonessential Services
3	Medical Maintenance, Heat Steam Operation, Grounds Maintenance Supply
4	Maintenance, Base Operations
5	MFH Maintenance, Chiller Plant Maintenance, Library Services
6	Facilities Maintenance
7	Base Support
8	Facilities Maintenance, Base Operations
9	Library Services
10	Base Operations
11	Base Supply, Civil Engineering, Computer Support Services, Transportation Services, Aircraft Maintenance , Military Personnel services
12	MFH Maintenance, Protective Coating Services, Library, Railroad Operations, Hazardous Material Handling, Transient Aircraft
13	Maintenance, Transportation, Supply Services, Community Services,
14	Base Operations (including Facilities Maintenance)
15	Hospital operations that are not medical in nature
16	Public Work, Maintenance, Range Operation
17	Base Operations, Facilities Maintenance, Logistics, Information Management, Food Services, Training Support, Child Development Center
18	Child Care, Family Services, Facilities Maintenance, Warehousing, Bulk Liquid Storage, Tug Boat Operations and Maintenance, Moral Welfare and Recreation, Retail Supply, Personnel Administration, Motor Vehicle Operations and Maintenance, Crane and Rigging
19	Not Applicable
20	Facilities Maintenance
21	Automated Data Processing
22	Ship Operations

Table 3-4 Responses To Survey Question Five

**6. Within the general category mentioned above, what were the exact services that were competitively sourced (i.e., painting or plumbing under facilities maintenance)? [100% Responded]**

Table 3-5 contains the response to the above question:

Respondent	Specific Services Studied for Competitive Sourcing
1	Librarian, Computer Support, Supply Stocking, Telephone Answering, Switchboard Operations, Administration
2	Library Services, Third Party Collections, Hospital Insurance, Hospital Heat Plant Operations, Telephone Switchboard Operations, Hazardous Material Storage Operations, Hospital Maintenance
3	Respondent could not answer
4	Grounds Maintenance, MFH Maintenance, Central Heating Plant Operations
5	See Response to Question #5
6	Military Family Housing, Transportation Parts Stores, Base Library Services, Transient Alert Maintenance, Civil Engineering Parts Store
7	MFH Maintenance and Management, Barracks Management, Furnishing Management, Waste Water Plant
8	Heat Plant Operations, Telephone Operations, Waste Water Treatment Plant Operation, Library Services
9	Library Functions (Administration, Collection Management, Financial Management)
10	Civil Engineering, Supply Transportation, Mission Support Services, Services, Maintenance, Communications
11	See Response to Question #5
12	See Response to Question #5
13	See Response to Question #5
14	All Categories of services within Base Operations
15	Ambulance Services, Food Services, Forensic Drug Testing
16	Pest Management, Refuse collection & disposal services, Electrical Plants & systems operation and Maintenance(O&M), Heating Plants and Systems O&M, Water Plants system O&M, Sewage & Waste Plants and O&M Air Conditioning and Refrigeration Plants, Other Utilities O&M, Troop Subsistence Issue Point Operation, Combat Vehicles, Non-combat Vehicles, Electronic and Communications Equip, Special Equip, Armament, Dining Facility Equipment, Containers, Textiles, Tents, and Tarpaulins, Metal Containers, Air Transportation Services, Rail Transportation, Aircraft Refueling, Training Aids, Devices, and Simulators, Range Maintenance, Flight simulator training
17	Property Book Maintenance, Pest Control, Logistics Maintenance, Aircraft Refueling and Defueling, Administrative Support Services
18	Whole functions within the categories listed in response to Question #5
19	Not Applicable
20	Administrative Functions
21	Information Program Management
22	Operation and Maintenance of Tug Boats

Table 3-5 Responses To Survey Question Six

This question was intended to identify the specific services, which make up the general category of services that are being examined for competitive

sourcing. It was intended to expand on the responses to the previous question. As stated, some of the respondents provided data supporting this question in their responses to question #5.

**7. In the case of activities that were competitively sourced, were cost comparisons performed between the Most Efficient Organization and other bidders? If cost comparisons were not performed, why were they not done?**  
**[100% Responded]**

This question was designed to look at the services that are being competitively sourced utilizing competition between the MEO and contractors. The goal was to identify a common family of services that which were utilizing cost comparison studies. In several of the cases the respondents stated that the question did not apply to their command. The reason for this varied from the command solely utilizing direct conversion as the method of competitive sourcing. In other cases the command was in the process of finishing their studies and had yet to send out their solicitation. Table 3-6 contains their responses.

Respondent	Did Command Perform Cost Comparison
1	Yes, additionally Direct Conversion was utilized
2	Yes
3	Most of the Studies being looked at for Cost Comparison
4	Yes, utilized 8(a) "Sole Source" Techniques for all studies
5	Yes
6	Yes
7	Not Applicable
8	No (All Direct Conversions)
9	Yes
10	Yes
11	Yes
12	Yes
13	Not Applicable
14	Will perform Cost Comparisons when time comes
15	Yes
16	Not Applicable (Have yet to complete study)
17	No (All Direct Conversions)
18	Yes
19	Not Applicable
20	Yes
21	Not Applicable (All Direct Conversion)

Table 3-6 Responses To Survey Question Seven

**8. What lessons did your organization learn to improve its performance and that of the contractors as a result of its competitive sourcing activities? [95% Responded]**

The purpose of this question was to capture the experience of the contracting commands in conducting A-76 studies. If possible these lessons learned would be tied to the common family of services, if one does exist. Of those commands that responded, a full third of them stated that they did not have any lessons learned. Of those that did not have lessons learned, respondents #13, #14 and #20 stated that their studies were still on going and that it was too early to tell.

Respondent #1 stated that their lessons learned centered on

...Writing Performance Work Statement(s)  
Organizations learned that they did not really understand all the work the function performed. They also learned that the commercial world is not that different from Government processes and often better.

Respondent #2 stated that their sole lesson learned was that the Government and the contractor must work as partners.

Respondent #3 did not provide any lessons learned but added a personal response emphasizing the importance of Integrated Process Teams (IPT) to the conduct of A-76 studies.

Respondent #4 stated that the Government needed to ensure that there was a strong steering group working on the A-76 study. The focus of the group should be instilling quality and enforcing the timelines.

Respondent #6 did not have a lesson learned for the contracting branch, but they did point out that as a result of an A-76 study the costs associated with the activity increased while the level of performance went down.

Respondent #7 stated that process within OMB Circular A-76 was "not very good" as it tended to take too long.



Additionally, they point out that senior leadership needs to take an active role in the process.

The involvement of key management personnel most familiar with the function was the sole lesson learned identified by respondent #9.

Respondent #11 stated that "Best Value" should be employed for competitive acquisitions. They also highlighted the importance of the Integrated Product Team, this time in relation to the conduct of direct conversions.

Respondent #15 stated that the contracting officer should be involved very early in the study process. Additional involvement should include the local union. Their final lesson learned focused on keeping the Government employees informed as to what is going on with the A-76 study.

The sole lesson learned for respondent #16 was the need for a sound Performance Work Statement.

Respondent #18 stated that their lessons learned focused on the manpower available to conduct studies. Specifically they stated,

Government is at disadvantage due to inadequate Manpower resources in-house to perform Commercial Activity study processes. We are striving to provide more direct training. Contractor support to perform study processes is not the right answer. It takes leadership involvement from the top to get results.



The final lesson learned came from respondent #22. They pointed out that competitive sourcing can be used as effective motivation for Government and private industry to develop innovative ways of accomplishing tasks.

**9. Were there any protests lodged as a result of the competition? If there were any protests briefly describe the nature of the protest and the eventual outcome.[100% Responded]**

This question was intended to identify commands, which had undergone protests originating from competitive sourcing studies. The goal was to identify the nature of the protests as a tool to supplement the lessons learned data. In doing so, it would identify potential pitfalls that installations and Contracting Officers must avoid. Seventy-seven percent of the respondents stated that they had not received any protest to their competitive sourcing. In several cases, the commands included the phrase "Not Yet" in their response. Two commands stated they had not received protests as they had yet to issue final awards from their competitive sourcing studies. Another command stated that the question did not apply as they directly converted all of their commercial activities, negating the possibility of protest.

One command (respondent #15) stated they had received a protest as a result of their A-76 study. In this case the unsuccessful contractor argued "...that certain costing processes used in the cost analysis were calculated to the disadvantage of the contractor." The protest by the contractor was denied after it was determined that the costing process calculated the contractor's costs correctly.

There was an interesting response to this question by one of the commands. The command stated that they had not received any protests, but that a number of letters were written to Congressmen asking them to cancel certain A-76 studies. When queried on this question, the command speculated that the letters likely came from Government employees at risk of losing their jobs if the A-76 studies were to go forward.

**10. What were the significant risks associated with competitive sourcing process that your organization identified? [95% Responded]**

This question was designed to ask contracting officials what risk factors they had identified in the A-76 process and the measures they took to manage those risks. This question was intended to augment the lessons learned responses. Of the commands that responded to the question

14% stated that they had not identified any risks in the process (Respondents #2, #8, #12, and #21).

Those commands that did respond provided a vast array of risk factors that contracting officers confront. Each of the respondents' answers to question are listed below.

Respondent #1 stated that its risks were not having Government personnel qualified to "inspect" contractor functions as a member of a Quality Assurance Evaluation. Additionally, the respondent stated that a risk was the loss of in-house expertise over time would make it difficult to survey contractor performance and re-write the contract after the initial contract is completed.

Respondent #3 identified worker reaction to the competitive sourcing action as a risk. They stated that they were concerned that the functional worker would fear that the PWS and MEO teams were out to take their jobs which would negatively impact the level of support given to the teams.

Respondent #4 stated that their concern was the ability to adequately capture the work load data that must be accomplished by an organization. They also identified the ability to find a "quality" contractor who could meet the performance expectations of the Service as a risk factor.

Respondent #5 risks were the minimum manpower levels currently in their organization and the requirements that the SOW not add any additional work by the MEO if they won the competition. Additionally, they stated that the SOW could not add any work that would be performed if there were sufficient Government personnel.

Respondent #6 provided abbreviated answers to the question, stating that the Government's ability to meet the timeline, the potential for protests, accurate SOW and labor strikes were the risks that they identified.

Like the previous command, respondent #7 stated that their risks were the ability to meet the published timeline and transition between Government and contractor.

Respondent #9 identified risk centered on the contractor proposal. The Government local area network required clearances to access the system. As such the contractor had to propose how library patrons could access the Internet and submit detailed plans as part of their response to the solicitation.

Respondent #10 identified a number of risks associated with the A-76 process. They stated that their risks included,

...The large number of positions in COMM (436), the number of security clearances required, the time required for processing/obtaining clearances

(Defense Investigative Services averages 12-24 months, depending on the security level), and the Information Technology manpower shortage in the local area our transition period could be quite lengthy. The Wing military manpower office is working with ACC to ensure we retain sufficient manning until contractor or MEO have personnel clearances, necessary training is completed, and they are able to assume total responsibility for functions. Also, the MEO will have to hire additional workforce to replace the military workforce. Our local unemployment rate is extremely low (I believe 2<sup>nd</sup> lowest in the nation), and local news reports indicate shortages in some other labor areas as well (carpenters, plumbers, electricians, and other trade skills).

Respondent #11 stated that their risks centered around the transition resulting from the competitive sourcing action and its impact on the mission and individuals of the command.

The risks identified by respondent #13 focused on the performance work statement. Specifically, they believed that two identified risks were:

...Not capturing all the workload data; not being able to use workload for volunteers in the PWS; not being able to use workload for borrowed military manpower in the PWS; lack of experienced support contractors; lack of clear guidance from higher headquarters on various aspects.

Respondent #15 identified four separate areas that they considered to be risk areas. They provided the following list of risk factors:

1. One of the dangers is that you make huge savings and Congress sees that and says we need to do more. For us in the medical field that could



be disastrous. Should we offer up a facility or function that is efficient or inefficient. What will someone do with our results?

2. A second is stepping out and putting something up for study without considering what you may look like if you lose the study (that was significant for us--we were being pushed in Dec 98 to conduct studies. We did surveys of what to do based on the existing CA inventory...6 months later we now have 12K more re-viewable civilian positions than in Dec 98...if we had initiated too many studies in Dec 98 we would now be undoing what we did before)....

3. A risk is what to put in the study--we heard that Aberdeen removed the Info Tech portion from their Whole Base Study as they thought it might cause them to lose so if they lost they only wanted to lose the IT...the final result was that they won the IT by \$16M (100 positions) but lost the other 600 position study by only \$500K....

4. Changing rules--not just as in #2 above but in the overall program. Those rule changes affect current/ongoing studies. Effectively providing guidance on what to do when those rule changes hit is important.

Respondent #16 identified the cost of doing commercial activity studies as their prime risk. They stated that there was no funding available for conducting the A-76 studies.

Respondent #17 echoed the risks identified earlier including cost of the studies, unrealistic timelines, and manpower shortfalls created by contracting out military positions. Additionally, they stated that the Pentagon expected savings are unattainable from A-76 studies. The



20% savings taken prior to conducting the study was too optimistic. The final risk they identified was the,

...potential for delays and impediments to study completion. Projected decrements in BASOP functions do not facilitate PWS development - the function becomes a moving target. Reengineering initiatives eliminate contractor competition and potential for increased savings.

Respondent #18 stated they identified four risk areas of concern. Those risks were inadequate personnel to perform the studies, lack of contractor support resources, lack of guidance as to what are inherently Governmental functions, and the impacts on the sea/shore rotation.

Respondent #19 identified "massive upheaval" to the mission of the organization as a risk. Additionally, they identified the potential loss of services and critical personnel as risks of the A-76 process.

The risk of losing in-house expertise and alienation of the workforce were risks that respondent #20 identified. Along with that, they stated that there was a risk of losing focus on the needs of the customer.

The final area of risk was identified by respondent #22. They stated that conflict of interest with Government employees was a significant risk. They were concerned that Government employees working on the Management Plan and contracting personnel working with private industry would be

exposed to proprietary information related to the function under study.

## **2. Data Collected for sources other than Survey**

### **a. *Recent and Planned Competitions***

Each of the uniformed Services have announced their intentions to competitively source commercial activities aboard their installation in the coming years. The nature of the services looked at in the announcements to Congress varied by Service and installation. A number of Major Commands both within the Army and the Air Force announced their intention to study similar services performed at multiple installations. [Refs. 16, 17]

In announcing the commercial activities that would be looked at for competitive sourcing, the Air Force additionally stated which services would be considered for competition between the MEO and private firms, and which would be looked at for direct conversion.

In looking at recent competitions, the General Accounting Office published a report in February 1999 detailing functions that were competitively sourced. [Ref. 13] The data presented in the study focused on those competitions that were completed from October 1995 to March 1998. The report listed competitive sourcing activities for each of the uniformed Services, along with DECA and DFAS. In

each of the years reviewed, the Marine Corps did not complete any competitive sourcing studies and therefore will not be reported in the data presentation.

The GAO looked at 46 separate A-76 studies that had been completed. Of those studies, there were several categories of services that were competed by more than one installation or more than one service. By far the greatest frequency of A-76 studies occurred in the areas of Family Housing Maintenance and Base Operating Support, both of which were represented in 5 separate A-76 studies. In the GAO study there was one category of services, Aircraft Maintenance, which occurred frequently. This is likely tied to the fact that the majority of competitive sourcing studies completed during the period occurred within the Air Force. In addition to the above listed categories of services the following services were looked at by more than one installation or more than one Service [Ref. 13:p. 26-30]

1. Grounds Maintenance 3 Studies
2. Power Production 3 Studies
3. Library Services 2 Studies
4. Audiovisual 2 Studies

In review of the proposed studies scheduled for FY 97 to FY 99 there are similar patterns in the nature of services reviewed for competitive sourcing. The commercial

activities being reviewed by multiple installations include the services in the following categories [Refs. 16-18]:

1. Base Operating Support
2. Family Housing Management and Maintenance
3. Base Communications
4. Utilities and Heating
5. Library Services
6. Base Supply
7. Grounds Maintenance
8. Child Development Center Operation
9. Automated Data Processing
10. Motor Vehicle Maintenance
11. Administrative Support Service

**b. A-76 Lessons Learned**

By far the greatest amount of information extracted from the World Wide Web came in the form of lessons learned from previous competitive sourcing activities. There were several sites maintained by the Army and Air Force that contained lessons learned. Additionally, there were a number of documents containing lessons learned from previous competitive sourcing studies. The lessons learned generally fell into one of the four following

categories<sup>2</sup>:

1. Activities occurring prior to the Conduct of the A-76 Study
2. Conduct of the A-76 Study
3. Source Selection Process
4. Post Decision Actions

The lessons learned include activities undertaken by contracting officers, as well as other staff functions, that form the management team looking at competitive sourcing.

The first lesson learned dealt with command support of the A-76 process. It emphasized obtaining and maintaining support of the installation commander. It also emphasized that key leadership personnel in the A-76 study "buy into" the process and set the example for all members of the study group. [Ref. 19]

Prior to the start of the A-76 study, a key lesson learned addressed the issue of forming the team to accomplish the commercial activities studies. It highlighted the need to form the Commercial Activities Team (CA Team) into functional areas in order to examine the requirements of the given commercial activity. Once the CA

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<sup>2</sup> The breakdown of the nature of Lessons Learned was adopted from an Army World Wide Web site in Reference 19.

Team completes the requirements analysis, it was recommended that the CA Team be subdivided into teams that could look at the PWS, Management Plan, Independent Government Cost Estimate and the QASP. The rationale behind this structure was to allow completion of multiple tasks simultaneously, while still maintaining contact with the larger CA Team. Additionally, it was recommended that an independent audit team be formed to ensure that all participants are operating with a common set of baseline data.

Proposed manning of the CA Team came in the form of a lesson learned citing the need to utilize full time participants in the A-76 study, rather than personnel who are there only part time. Additionally, it was recommended that retired Civil Service employees be brought in to help man the CA Team. The rationale behind such a recommendation was that the retired employees would bring a level of functional expertise that could assist in the collection of workload data.

Since A-76 studies cannot begin until Congressional notification is given in most cases, it was recommended that formulation of the A-76 team begin once it is known that the process will occur, but prior to notification of Congress. This allows the team the opportunity to begin the study once notification is given



and the clock starts running. [Ref. 19]

Another action recommended early on was developing an open communication policy for passing information to and receiving information from all of the stakeholders in the competitive sourcing study. It was cautioned that such communication channels should not "...divulge information that could prejudice the MEO or offers or jeopardize the integrity of the A-76 process." [Ref. 19]

It was recommended that the A-76 team develop detailed milestones for each of the commercial activities being studied. As milestones are developed, it was recommended that they be entered into a tracking system, and that the milestones should be updated promptly if the time schedule changes. There were a number of recommended milestones in the lesson learned and included at a minimum the following activities: [Ref. 20]

1. Begin Development of the PWS and Management Plan
2. Complete first draft of the PWS
3. Complete PWS
4. Complete management study
5. Complete in-house cost estimate
6. Issue solicitation
7. Begin source selection process
8. Notify major commands of the initial decision

9. Convene appeals board (if necessary)
10. Begin transition period
11. Fully implement contractor operations or MEO

It was recommended that commands study an entire function (e.g. Public Works) when doing an A-76 study. This prevents the agency from studying only part of the activity, only to waste time and money studying another aspect of it at a later date. Anything less than a full study runs the risk of perpetuating inefficiency in the organization as the most efficient organization for the entire function was not created or staffed. [Ref. 20]

Several lessons learned focused on developing an action plan and gaining the support of key installation personnel for the A-76 process. It was recommended that installations form a Commercial Activity Executive Committee. Team members would include the Installation Commander as the Chairman, Director(s) of the function(s) being studied, Contracting Officers, Civilian Personnel Office and Major Commands aboard the installation. The purpose of the committee would be to monitor the A-76 study and make command decisions as necessary. It was also recommended that a single individual be appointed to keep the study moving according to schedule. [Ref. 19]

One of the lessons learned cited the need for

publishing installation regulations relating to the A-76 study process. Additionally, it was pointed out that letters of instruction should be published outlining the responsibilities and duties of the action officers, and organizations participating in the A-76 study. [Ref. 19]

There was one lesson learned that addressed the issue of formulating an acquisition strategy. It was recommended that an Acquisition Strategy Panel be formed to address the issues of commercial activity business strategy at the beginning of the A-76 process. Some of the issues recommended for review by this panel included the following: [Ref. 19]

1. Contract Type
2. Use of contract incentives
3. Use and disposition of Government Property
4. Desired performance factors
5. Maintenance and/or replacement of property by the Government or the Contractor
6. Required interfaces with automated information management systems to ensure collection of data for future contracts and for reports to higher headquarters

Commands were also cautioned to make early determinations in the planning process as to how unique

labor sources such as prisoners, volunteers and borrowed military personnel would be treated. It was pointed out that unique labor provides challenges to the A-76 study team, especially if the installation wants to continue utilizing these groups to perform work, but lack the ground rules for using them in commercial activities. It was recommended that a policy be developed which addresses the inclusion of unique labor sources in the Performance Work Statement, Most Efficient Organization, and the cost comparison. [Ref. 20]

The lessons learned for the conduct of the study tended to focus on the collection of workload data and formulation of the PWS. In looking at the workload data the lessons learned stipulated that the command must look at the performance requirements to determine what functions are currently being done by the organization. It was recommended that commands avoid the temptation of using previous performance requirement studies as the base line of establishing what services are currently being performed. The lesson learned stated that the organization should take a fresh look at what activities currently being performed and analyze current internal processes to identify inputs, outputs, and internal controls. It also cautioned against adding tasks to the survey to stack the deck in favor of the

in-house organization. Such actions often prove to be more costly to the Government and have little impact on contractor bids to perform the work. [Ref. 19]

One of the lessons learned recommended that commands have a third party review and validate the requirements in the PWS. Outside validation would ensure that the requirements listed in the PWS are still performed and still required. The outside source could also look at the operating procedures of the activity to ensure they are current, as well as the frequency of the requirements. [Ref. 19]

One of the lessons learned addressed the issue of Allowable Quality Levels (AQLs). The rationale behind this lesson learned was that "...most service contracts cannot be performed perfectly every time." Therefore, the solicitation should allow for the establishment of AQLs with a reasonable level of effort to be performed by the MEO or contractor. [Ref. 19]

In constructing the Performance Work Statement, one of the lessons learned cautioned that a Performance Requirements Review be accomplished prior to moving ahead with the other portions of the A-76 study, especially the Performance Work Statement. This is especially true when the PWS does not accurately reflect the actual work to be



accomplished. It was highlighted that there were cases where an MEO was developed to meet the actual work being done by the activity, while the contractor bid on work specified in an inflated PWS. The logical outcome was that the MEO came in with a substantially lower price and the work was retained in-house. Subsequent challenges by the unsuccessful bidders resulted in the initial procurement being set aside and a new competition was held using the update work requirements. [Ref. 19]

Additionally, the lessons learned cautioned against Government activities attempting to "Get Well" as a result of the A-76 process. The commercial activity should not assume that it will gain additional manpower through the addition of work requirements not currently being done. In situations such as this the likely scenario would be that if the MEO were to win the competition, it would have insufficient personnel to perform the additional tasks. [Ref. 19]

There were several lessons learned tailored to the actual construction of the PWS. The first of these emphasized the need to avoid telling the bidders how they should accomplish the work, rather telling them what work is required. It did state that if particular approaches to accomplishing a given task are necessary, then those



requirements should be outlined in Section L of the solicitation. Additionally, such requirements should be outlined as evaluation criteria in the Source Selection Plan. [Ref. 19]

There was mixed reaction in the lessons learned regarding use of skeleton or previously used PWSs. It was recommended not to use prior PWSs, as the study group tends to copy the old PWS instead of formulating one to meet their specific needs. Conversely, it was recommended that old work statements be used as a jumping off point and that individual tailoring of requirements would naturally occur. The use of such templates would assist the A-76 staff in not only developing the performance work statement, but it would serve also as a catalyst to completion of the study in the mandated timeframe. [Refs. 19, 20]

It was recommended that the personnel from the contracting office be involved in the development of the PWS. It was pointed out that contracting personnel are critical in supporting the PWS team by providing knowledge of contract requirements that must be represented in the PWS. [Ref. 19]

Another of the recommendations was the utilization of database maintenance systems capable of updating the PWS whenever changes in workload data occurred during the

commercial activity review, and during performance by the MEO or contractor. In line with that, it was also recommended that the Government be given access to the data collected by a contractor regarding work performed and the level of effort required to perform a task. It was pointed out that such requirements need to be included in the PWS and relevant contract clauses. [Ref. 19]

One of the lessons learned highlighted the fact that the decision as to the type of contract utilized should be based on the nature of work outlined in the Performance Summary. It was pointed out that gaining concurrence by all interested parties as to the type of contract early on prevents a situation where the contracting office must go back and change various documents to reflect a change in the contract type. Additionally, it was pointed out that work on the PWS and other relevant contracting documents should not begin until the contract type is decided upon. [Ref. 19]

Another lesson learned stated the need for accurate workload data to prevent work requirements from exceeding workload figures outlined in the contract. Excess work would require change orders to the contract, which could ultimately drive up the price of the contract. [Ref. 19]

Additional lessons learned under the broad

category of the conduct of the A-76 study include the development of the Quality Assurance Surveillance Plan. One of the lessons learned highlighted the fact QASP is vital in both a fixed price and cost reimbursement contract to control costs. In both cases the QASP is one of the tools which the command utilizes to discover discrepancies in the PWS which could raise the price of the contract.

Additionally, it was pointed out that an in-depth QASP is necessary to ensure that the contractor performs in accordance with the terms of the contract and meet specified performance levels. It was recommended that quality inspectors should not arbitrarily select a surveillance method (e.g. random sampling); rather they should rely on the expertise of the functional personnel responsible for the implementation of the surveillance plan in making the decisions regarding the method of surveillance. [Ref. 19]

The next phase of lessons learned examined the source selection process and awarding of the contract, when applicable. The first focus was the construction of Section L of the solicitation. It recommended that the section include information as to what offerors should provide as part of their bid. Specific areas included what bidders should include in their technical proposal in order to standardize formats to facilitate evaluation by the Source

Selection Evaluation Board (SSEB). Additionally, it was recommended that offerors be required to submit staffing charts showing proposed staffing levels and personnel positions that meet each of the functions in the PWS. The manning levels in the proposal should be equated to the proposed hours in the Cost Proposal. [Ref. 19]

An interesting recommendation from one of the lessons learned would require contractors provide a Past Performance Summary Matrix including all the vital information from similar contracts they had previously undertaken. The matrix would include technical points of contacts for other organizations and any data relating to their performance on a given contract. [Ref. 19]

One of the lessons learned highlighted the fact that members of the Source Selection Evaluation Board (SSEB) must be identified early in the process to prevent them from becoming "tainted" by participation in the Management Study or Independent Government Cost Estimate. It was also recommended that a list of personnel who are forbidden from serving on the SSEB due to conflict of interests be developed. [Refs. 21, 22]

There was one lesson learned, which covered the action related to making a final determination of the winner in the competitive sourcing study. It recommended that

commands formulate and publish source selection criteria to serve as a guide in the decision process. It also stated that Section M should contain language indicating that price realism will be a criterion used in addition to lowest price for awarding the contract. [Ref. 19]

Lessons learned for activities after the decision covered two areas, administration of the contract and undergoing an appeal. In the area of administration of the contract there were several lessons learned covering the phase-in of the contractor into the organization. It was recommended that the Government and the Contractor stagger the changeover process covering several months. A final date should be set for the contractor to assume full responsibility for the activity and any Government-Furnished Property (GFP) required for performance. It was also recommended that the phase-in plan be a requirement in the solicitation and that evaluation. [Ref. 19]

A Contract Administration Plan (CAP) should be developed for the administration of the contract. The plan should include requirements to inspect in accordance with the QASP to ensure the contractor comply with requirements outlined the contract. In drafting the CAP, it was recommended that the contracting officer take advantage of the knowledge of the functional personnel to ensure that the



plan is technically sound. [Ref. 19]

Administration of the QASP is another area that was highlighted. The lessons learned focused on ensuring that the contractor was meeting the Acceptable Quality Levels (AQL) and that the inspectors were not levying requirements or inspection beyond the scope of the contract. One of the lessons learned cited a situation where a contractor appealed to the Board of Contract Appeals seeking funding for additional cleaning required by the quality inspectors. The board ruled that the contractor was entitled to the funds. The board recognized that the inspector did not have the authority to obligate the Government, but the Contracting Officer knew of the additional requirements levied by the inspector and did nothing to correct the improper inspections.<sup>3</sup> In failing to correct the actions of the inspector, the Board found that the Contracting Officer was obligated to reimburse the contractor for the additional expenses. [Ref. 19]

One of the last lessons learned dealt with directing the contractor on how to proceed when there are differences between existing site conditions and those

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<sup>3</sup> The researcher was unable to find the actual Armed Services Board Contract Appeals case cited in this particular lesson learned. The information was included as it highlights a risk that all Contracting Officers face when utilizing Contracting Officer Technical Representatives (COTRs) in the administration of service contracts.



stated in the contract. The lesson learned cautioned that the Government should exercise care to ensure that they do not find themselves in material breach of the contract if conditions change from the time of the solicitation to the awarding of the contract. The lesson learned recommended that both the Government and the contractor come to a mutually agreeable position to ensure that the contract "gets off on the right foot." They warn that good relations between the two parties is hard to establish if both sides fail to handle the situation properly. [Ref. 19]

The final lesson learned in this area dealt with sharing the knowledge and information gained through the A-76 process with other commands. It was pointed out that both Government employees and contractors supporting the A-76 study should be responsible for capturing lessons learned in writing and making that available to other commands. [Ref. 20] GAO echoed the same advice in a July 1999 report concerning the value of a comprehensive lessons learned system for A-76. GAO pointed out that,

...DoD and its components have devoted limited resources to documenting and disseminating lessons learned and best practices from the various efforts that could be useful DoD-wide. [Ref. 23: p. 2]

### **c. Protests**

Protests by unsuccessful offerors to the

Comptroller General of the United States also provide a valuable source of lessons learned for Contracting Officers. The vast majority of the cases brought before the Comptroller General were by contractors protesting the conduct of the cost comparison or source selection evaluation process.

In the matter of Crown Healthcare Laundry Services, Inc. the protest alleged that the Air Force improperly conducted a cost comparison between the Department of Veterans Affairs (VA) and the protester, to perform laundry services at Keesler Air Force Base. Keesler Air Force Base issued an Invitation For Bid (IFB) during February 1995, soliciting bids for the performance of laundry services. The IFB indicated that an A-76 cost comparison would be performed and included a PWS to be used in formulating bids and the Independent Government Cost Estimate. The VA provided its cost information to the Air Force along with an Interagency Sharing Agreement. For the purpose of the cost comparison the VA was considered to be the in-house bidder. Two bids were received in addition to the VA Bid, with the low priced commercial bidder withdrawing their bid due to mistakes in the bid. This left Crown as the sole bidder.

In protest, Crown contended that the Air Force

cost comparison was faulty as the VA cost estimate underrepresented the actual cost of performing the work. Crown argued that the VA's cost estimate was based upon doing less work than was described in the PWS. Crown further contended that the Air Force erred in adding the agency's cost of administering the contract to Crown's bid, but not adding the cost to the VA's cost estimate.

In denying the protest, the Comptroller General pointed out that both Crown and the VA were given identical copies of the PWS. They further pointed out that actions based upon an unreasonable interpretation of the PWS by Crown was not grounds for setting aside the award. The Comptroller General further pointed out that PWS stated that the contractor must "receive, account for, launder and return" all items. The PWS did not require the contractor to count the items, rather leaving it to the discretion of the contractor as to the method of accomplishing this task.

In looking at Crown's contention that the Air Force should not have added the contract administration cost to their bid and not that of the VA's. The Comptroller General quickly dismissed this argument by pointing out that prior to the addition of these costs, Crown's bid price was still in excess of that of the VA's.

In this decision, the Comptroller General reviewed

the Air Force's application of OMB A-76 to this particular solicitation. As such they stated:

We review agency decisions to perform services in-house instead of contracting for them solely to ascertain whether the agency followed the announced "ground rules" for the cost comparison.

This finding by the Comptroller General reinforces the requirement of the A-76 team, especially the contracting officer conduct the cost comparison in accordance with criteria established within the solicitation. [Ref. 24]

Content of the solicitation was the basis of another protest heard by the Comptroller General. In this particular case, the protestor, ANV Enterprises, Inc. contended that the solicitation was so inadequate as to prevent intelligent competition. AVN Enterprise's protest was based on the belief that the Air Force had not sufficiently definitized the specifications of the solicitation in their answers to Enterprises questions regarding the content of the IFB.

The solicitation envisioned the awarding of a fixed-price contract for a base year with four option years for the performance grounds maintenance. The solicitation also provided for visual inspection of the areas to be maintained to aid prospective competitors

in formulating their bids.

The Air Force held a pre-bid opening conference with all potential offerors during which AVN submitted a list of 77 questions regarding numerous specifications that they believed were ambiguous. Subsequent to the conference, the Air Force issued three amendments to the solicitation, two of which responded to AVN's questions.

AVN maintained that the amended IFB still contained numerous ambiguous specifications, and that Air Force did not resolve most of the questions on AVN's list. As a result of not addressing the ambiguities in the solicitation, AVN was forced to take undue risk in establishing a bid. Further they stated that the undue risk gave the in-house organization a competitive advantage.

In denying the protest, the Comptroller General stated that a, "...procuring agency must provide prospective bidders with information sufficient to enable bidders to compete intelligently and on a relatively equal basis." They further stated that "...an IFB need not be so detailed as to eliminate all performance uncertainties and risks." It was recognized that there is inherent risk in most types of contracts and the offerors are expected to account for that



risk when preparing their bids. [Ref. 25]

In the matter of DZS/Baker LLC; Morrison Knudsen Corporation, the Comptroller General sustained the protest of two companies competing for a contract aboard Wright Patterson Air Force Base (WPAFB). The protest was in response to actions taken by Air Force official originating from a May 1998 solicitation by the Air Force requesting:

...Submission of initial technical to perform maintenance, operation, repair, and minor construction with respect to facilities, utility systems, grounds and infrastructure at WPAFB.

The solicitation went further to state that offerors submitting technically acceptable proposals would be invited to bid. The solicitation stated that technical compliance would be evaluated in five areas—technical plan, organization and management plan, quality control, past performance and transition plan. The solicitation also stated that “any factor or sub-factor judged to be unacceptable will render the entire area unacceptable.”

In response to the solicitation, two technical proposals, DZS/Baker’s and Morrison Knudsen’s were received by the closing date. After advising the competitors of the Air Force’s initial review, each of the companies was requested to submit revised technical proposals. Based upon the evaluation of those revised technical proposals, Air



Force officials determined that both were severely deficient, making them technically unacceptable. After making the determination of both offerors being non-responsive, the Contracting Officer reviewed Air Force instructions for options available to the command. It was decided that the appropriate course of action was to cancel the solicitation and implement the MEO.

The protest by both offerors was based upon their belief that the determination upon which the solicitation was cancelled:

...resulted from a failure to conduct meaningful discussions and an unreasonable evaluation of technical proposals by evaluators with an improper conflict of interest.

The conflict of interest argument was based upon the fact that 14 of 16 evaluators, responsible for evaluating the proposals, held positions that were under study as part of the A-76 process.

During the course of rendering a decision on this protest, the Comptroller General referred to FAR 9.504 for guidance. The FAR provides general guidance to contracting officers stating that they should identify and evaluate potential organizational conflicts of interest early in the acquisition process. Additionally, the FAR points out that it is incumbent on the contracting officer to "Avoid,

neutralize, or mitigate significant potential conflicts before contract award."

In sustaining the protest the Comptroller General concluded that,

In light of the significant conflict of interest on part of the evaluators, the evaluation was invalid and did not furnish a proper basis for cancellation of the solicitation

Further, it was recommended that the Air Force rescind the cancellation of the solicitation, staff a technical evaluation team consistent with the decision and reevaluate the step one technical proposals. [Ref. 15]

#### **D. CONCLUSION**

This chapter identified the methodology employed in surveying contracting commands which are in the process or have completed A-76 studies. It also reviewed information available through various sources focusing on lessons learned by military units, protest decisions by the Comptroller General and A-76 study data for both completed studies and those in progress.

The objective of the chapter was to build the foundation upon which analysis of the A-76 process could be built. The foundation was presented by looking at the competitive sourcing actions that DoD Services have completed in recent years, coupled current initiatives. In

addition to past and current competitive sourcing studies, lessons learned from previous A-76 studies were examined to extract information for analysis. In a number of cases the lessons learned were augmented by protest decisions rendered by the Comptroller General. This information was supplemented with the responses by a number of contracting commands from the three Services.

In Chapter IV the data presented in this chapter will be analyzed in terms of the implementation of a competitive sourcing study.

## IV. DATA ANALYSIS

### A. INTRODUCTION

Data for this thesis pertaining to competitive sourcing activities were gathered from various commands within the Army, Navy and Air Force. This information was supplemented with data from the Internet and other Government documents. In analyzing the data, the researcher intends to address the primary and secondary research questions. Additionally, the analysis will focus on the process through which commands implement competitive sourcing studies.

In combing through the data, there were a number of issues that arose relative to the primary and secondary research questions. This chapter will focus on addressing those issues as well as examining possible methods of improving the competitive sourcing process. The general areas that will be focused on in the analysis are the following:

1. OMB A-76 Procedures and their impact on competitive sourcing studies.
2. Identification of inherently Governmental functions versus commercial activities.
3. Identification of a common family of services for competitive sourcing.

4. Management of competitive sourcing studies.
5. Risk identification and management in competitive sourcing studies.

#### **B. REQUIREMENTS OF OMB A-76**

Reviewing data collected from the commands within each of the three Services, it was evident that a number of respondents were not happy with the competitive sourcing process laid out in OMB A-76. Approximately one third of the respondents stated that the circular was "Not Very Good" and that it tended to take too long to complete studies. Overall, the consensus with many personnel could be paraphrased by stating that the process in their view is "broken".

In stating that A-76 is "broken" one must review what is required of commands by the circular. The first major area of concern is the manner under which cost comparisons are conducted. The circular provides guidance for the conduct of the cost comparisons, but little else. It does not describe the method that commands are expected to utilize in capturing and recording costs. The method for capturing costs is left up to the command or the Service. The circular also fails to provide instructions on calculating non-standard costs, such as use of volunteers or prison labor. The circular also provides minimal to zero

guidance on calculating direct costs, indirect costs, and general and administrative costs for a Government function. What the circular assumes is that organizations within the Executive branch already have a uniform and functioning cost accounting method and system, capable of providing accurate cost data in a relatively short time period. Since this is not the case, competitive sourcing studies are lengthy and difficult to perform.

The second area of concern is the actual conduct of the cost comparison. The circular does not provide a "level playing field" in the eyes of fifteen-percent of the respondents. This claim is made based on the requirement for the A-76 study team to compare the cost of the lowest qualified bidder against the proposal submitted by the Most Efficient Organization. In doing so, it requires the organization to ultimately base a decision on cost alone, rather than examining the overall benefit that each party brings to the table.

The circular does not adequately reflect the thrust of many DoD and Government-wide reform initiatives attempted over the past few years. This is especially true in the case of "Best Value" procurements. This manner of procurement is allowed under OMB A-76, but with slight modifications from standard "Best Value" procurements. In a



traditional "Best Value" analysis, procurement price is a factor that can be traded-off for other factors that the procuring agency deems appropriate. Circular A-76 provides for best value procurement, but under modified conditions. In cases where proposed contractor performance exceeds that proposed by the MEO, resulting in a superior grade in one or more of the evaluation criteria, the MEO is allowed to modify it's proposal. The MEO is informed as to what areas need modification and is then allowed to revise their proposal to meet the threshold established by the contractor. After they have met the performance thresholds, the MEO then computes and submits their bid again. The award is then based on which of the two organizations has the lowest bid.

The evaluation of past performance is another concept lacking in A-76. Past performance can be a critical factor in making a "Best Value" determination. One of the respondents to the survey highlighted the need for inclusion of past performance data in the competition, but did not state how it was to be measured. The circular fails to address the issue of how past performance would figure into the prescribed cost comparison process. Worse yet, it fails to provide any guidance as to how a Government management

review could or should determine past performance of the commercial activity for inclusion in their MEO bid.

### **C. INHERENTLY GOVERNMENTAL FUNCTIONS VERSUS COMMERCIAL ACTIVITIES**

In examining the responses to the survey and talking with the respondents it quickly became clear that there is a fairly standard idea how to define and select the "core" inherently Governmental functions, such as those included in Appendix C. The problem that arises is determining what functions are Governmental in nature but comprise a "gray area", lending credibility to the argument for retaining them in-house. Since there continues to be a "gray area" there is no uniform view across DoD as to what functions are purely commercial in nature.

Several of the respondents stated that their commands or Services maintained a list of activities that were excluded from competitive sourcing. Within the literature there was no documentation that identified those functions that fall within the "gray area". In comparing each of the A-76 study announcements of Services, there does not appear to be a generally accepted view of what services are Governmental in nature. An example of this is the management and maintenance of Automated Data Processing (ADP) equipment. The Navy adopted the view that the

function is a commercial practice and put it up for study at various commands. The Air Force, on the other hand, did not include this function in their commercial activity announcements. None of the respondents to the survey indicated what activities were on the restriction list. This is likely due to the researcher failing to adequately construct the question in the survey.

In addition to the OFPP determination of what is inherently Governmental, there are several categories of services that are protected by legal restrictions against competitive sourcing. These include fire and police services and a portion of depot level maintenance work. Recent changes in the attitude of both Congress and the Department of Defense in the last few years regarding competitive sourcing indicates that the number of services protected by law may gradually decrease. However, it is unlikely that all legal restrictions against outsourcing will disappear. There are enough stakeholders to persuade members of Congress to erect fences around one function or another. This fact was highlighted by one of the respondents to the survey. A respondent from one of the Navy commands stated that a number of Government employees in activities under study wrote their Congressmen seeking to cancel A-76 studies at their organization.

The desire of Congress to see that competitive sourcing is used as a tool to reduce operating costs was evident in the passing of the Federal Activities Inventory Reform Act of 1998. By requiring the Executive Branch to detail what commercial activities that it undertakes, Congress hopes that it sent a message. The message is simple: the Government does not need to be performing activities that can be provided better and less expensively by the commercial sector. Unfortunately, the message has not had the impact intended as continued restrictions against competitive sourcing sends conflicting signals to DoD. The Department of Defense is forced to implement OMB A-76, comply with the Fair Act, and abide by legal restrictions simultaneously. This is virtually an impossible task.

#### **D. IDENTIFICATION OF A COMMON FAMILY OF SERVICES**

In reviewing the activities competitively sourced or recently announced as up for study, a number of general service categories have been opened for competition by more than one branch of the military. In some cases, major commands have identified commercial activities that are nearly identical on several installations and consolidated efforts to competitively source them.

It cannot be said for certain whether there is a common family of services that lends itself to competitive

sourcing. What can be said is that there are a number of services that are repeatedly open to competition on more than one installation or in more than one Service. This conclusion is based upon the number of Services, major commands and installations that have had a particular activity competitively sourced in the past or currently up for study. Of those services highlighted in Chapter III, the most common are the following:

1. Base Operating Support
2. Family Housing Management and Maintenance
3. Base Communications
4. Utilities and Heating
5. Library Services
6. Base Supply
7. Grounds Maintenance

Among the above services, Grounds Maintenance, Power Production and Library Services have successfully been competitively sourced in the past. In examining the above services one may draw the conclusion that these particular services are common in the commercial sector, and thus could be easily outsourced on Marine Corps installations.

Although the above services are fairly common across the spectrum of DoD and the commercial world, this does not insure that competitions are immune from difficulties,



including protests. Chapter III detailed protests of competitive sourcing studies in the areas of grounds maintenance and base operations. Protests in these functions reiterates the requirements that contracting officers and A-76 teams build an acquisition strategy in accordance with the Federal Acquisition Regulation (FAR) and follow that plan. This fact was pointed out in the matter of DZS/Baker LLC and Morrison Knudsen Corporation, as the Source Selection Evaluation Board was not created in accordance with the FAR. The result was the decision of the contracting officer was called into question and a mandate was then issued by the Comptroller General to compete the commercial activity again.

#### **E. MANAGEMENT OF COMPETITIVE SOURCING STUDIES**

A number of different pieces of data hinted at problem areas within the management of competitive sourcing studies. Within the Services, a small number of major commands played an active part in the competitive sourcing process. In cases where major commands played an active role, the level of support varied from identifying potential candidates to developing Performance Work Statements. However, with only ten of the respondents indicating involvement of the major command in competitive sourcing studies, the management of



competitive sourcing programs, have for the most part, been left to individual installations.

In nearly a quarter of the survey responses, commands indicated the need for a sound management structure to support the A-76 study. In a few cases, it was highlighted that the senior management of an installation, including the installation commander should be involved with the process, as this lends credibility and guidance to the endeavor. This important aspect A-76 requirements was also mentioned on several different occasions in the lessons learned for the Army and Air Force.

A number of critical issues within the A-76 process may be identified to reinforce the requirement for strong management of the process. Some of those issues include the need to meet timelines for completing the study, resolution of conflicting interests among stakeholders, and development of a sound acquisition strategy to manage identifiable risk factors. In a few of the survey responses, commands recommended putting together an "A-76 Council" composed of stakeholders, or putting together an Integrated Product Team (IPT) for conducting the study. What the responses did not indicate was that commands recognized the complexity of competitive sourcing with respect to the need for "management" of the study. Given the nature of competitive

sourcing studies, a better management approach would be one similar to that used for major weapon systems implemented through a "quasi" program office for A-76 studies.

#### **F. STAFFING THE COMPETITIVE SOURCING TEAM**

In addition to having a full-time program manager, installations should examine the different options assigning A-76 study team members to a study on a full-time basis. The lessons learned presented conflicting opinions regarding the topic. Some commands saw the benefit of having the employees focus on A-76 solely, while others did not. Those in opposition pointed out that such a strategy could cause employees to lose touch with the areas they are studying, since they are no longer performing the jobs.

Again, one of the critical issues that must be considered in the staffing of the teams is the ability to meet the designated time schedule. As one respondent pointed out, timelines are critical because the Services have already programmed the cost savings into installations budgets for future years. Budget shortfalls that arise due to studies not completed when anticipated will cause undue stress on the installation. To meet the time schedule, it is advisable to assign full-time members to the A-76 staff. The loss of technical competence should not be an issue if

team members work closely with the activities under study in the development of the PWS.

Another benefit of assigning members full time is that their minds will be focused fully on the task at hand. Staffing the group with individuals that have other duties means that the potential exists for them to be pulled in other directions. The other implication is that both Civil Service and Service members participating in the study might have to answer to more than one boss. There is always the chance that a conflict of interest could arise, placing the A-76 study in jeopardy, as seen at Wright Patterson Air Force Base in the case of DZS/Baker LLC and Morrison Knudsen Corporation.

#### **G. DEVELOPMENT OF AN ACQUISITION STRATEGY**

The acquisition strategy is the single most important document that an A-76 study team will put together. It will set the framework through which the ultimate sourcing decision will be made. As such, it should be the focus of effort for the A-76 team from the onset of the program. The importance of the acquisition strategy was highlighted in the lessons learned and the survey responses presented in the previous chapter. However, there were gaps in the information, both in the lessons learned and the survey

responses, with regard to critical areas of the acquisition strategy.

The first noticeable omission was any detailed discussion regarding the choice of contract type for a particular study. There were brief statements regarding the fact that the contract type should be chosen at the early stages of the process to prevent unnecessary changes later. However, there was no discussion regarding the decision as to contract type. As with other contracting actions, the type of contract should be based upon what is known regarding the requirements, level of maturity in the cost analysis and the level of risk both parties are willing to assume.

In communicating with some commands, it was evident that they intended to utilize Firm Fixed-Price contracts in their competitive sourcing studies, forsaking all other contract types. In those cases, FFP contracts may have been appropriate, but they would not be appropriate in cases where there are a high number of variable costs, such as food services. One of the problems with FFP contracts is that commands are potentially focusing on only half of the equation. A fair number of the commands contacted indicated that one of the primary concerns with A-76 is that the needs of the customer, normally the warfighter, will not be met if

activities are outsourced to a contractor. The FFP contract would allow the needs of the customer to be met, provided that the PWS is sufficient in detail. In cases where the PWS is insufficient, there will be a requirement to change the contract as to achieve the desired levels of performance by the contractor.

In examining the types of contracts available to installations, both the Fixed-Price-Incentive-Firm and Fixed-Price Award-Fee contracts appear to be viable options. Both of these contracts types provide incentives to the contractor to achieve a level of service above the stated thresholds in the contract. Additionally, cost reimbursement contracts may be an appropriate vehicle if the nature of the work is uncertain or where the costs associated with the services are unknown.

In the case of award fee contracts, there are a number of benefits, that result from the responsiveness of the contractor to the customers needs. Throughout the life of the contract, periodic evaluations allow the contractor to focus their efforts towards the tasks that the customer feels have top priority. It also allows the customer to focus the efforts of the contractor toward areas that they may have allowed to slip during the previous period of performance. Frequent review of contractor performance also



provides a medium through which continuous communications and improvement in performance can occur. In essence, it draws the contractor and the customer closer together as both have a vested interest in keeping the customer happy and the contractor successful.

What needs to be examined prior to deciding on the use of incentive or award-fee contract is the cost associate with administering such contracts. In the case of award fee contracts, the FAR stipulates several conditions that must be met to take full benefit of the contract structure. A brief list of these criteria includes the following:

1. The administrative costs of conducting award-fee evaluations are not expected to exceed the expected benefits.
2. Procedures must be established for conducting the award-fee evaluation.
3. The contracting agency must provide for periodic evaluation of contractor performance against an award-fee plan. The amount of the award fee to be paid will be determined by the Government's judgmental evaluation of the contractor's performance in terms of the criteria stated in the contract. This determination is made unilaterally



by the Government and is not subject to the Disputes Clause.

4. The award amount that the contractor may earn in whole or in part during performance needs to be sufficient to provide motivation for excellence in such areas as quality, timeliness, technical ingenuity, and cost-effective management [Ref. 26].

From the above list, it is evident that a great deal of work has to be accomplished even after the contract is awarded. The benefit is satisfied customers capable of accomplishing their missions within given budgetary constraints.

The next issue that contracting officers must contend with in the acquisition strategy is the role that past performance should play in the source selection process. In services contracts, past performance can be a key indicator of the level of service the Government will get for a given amount of money. The accumulation of past performance data from the contractor can be fairly simple, as it can be required in a company's bid. The sticky question is: how does one go about measuring past performance of the Government in doing a particular activity? There is no guidance in OMB A-76 on how to measure past performance of

Government operations. Fundamentally, it would be impossible to measure the past performance of the MEO, as it has yet to be implemented. What could be measured is the performance of the current Government organization. This measurement of past performance though would be flawed in that the organization with past performance data would not be the one competing in the source selection. In cases where the contracting officer believes past performance data should be evaluated, he or she could set up the grading criteria, and then normalize the scores for firms without past performance data. This base number could be compared against the scores of firms with past performance data. The same method would then be applied to the evaluation of the MEO proposal.

It would appear that requiring past performance data might not add value to the process in the competitive sourcing competition. This conclusion may be made on the grounds that in all of the competitions, the MEO would lack data to submit with their proposal. However, the value of past performance data should not be overlooked so quickly. In competitive sourcing, the contracting officer will be responsible for selecting the most competitive firm to compete against the MEO. Past performance data can serve as one of the critical evaluation criteria in deciding which

firm will compete against the MEO.

A logical link to the past performance issue is the idea of getting the "Best Value" for every dollar the Government spends on procurement. The steps for handling a "Best Value" competitive sourcing study were outlined in Chapter II. In looking at the response to the survey, none of the respondents addressed the fact that the Government was not getting the "best value" rather the lowest priced technically acceptable supplier.

Circular A-76 provides contracting officers the ability to evaluate the private sector offer and the MEO in a "best value" sense, examining the totality of each offer. If circumstances warrant a change in the MEO proposal, the contracting officer can inform the MEO of the areas to be reexamined. In such a case, the MEO is allowed to make any changes necessary to bring it up to a performance level equal to that of the private firm.

In conducting discussions with the MEO the contracting officer runs the risk of inadvertently revealing proprietary information that could level the playing field in favor of the MEO. There is a real danger that the contracting officer could "technically" level the playing field in the favor of the MEO, raising the potential for protests from private firms.

In broad terms, the playing field is not level and will stay that way until changes are made in A-76 that provides contracting officers discretion in evaluating and making a decision based on all aspects of the proposals. Given that all potential bidders are given the same solicitation documents, there should be no allowance for the MEO to adjust its proposal. Government agencies should approach competitive sourcing programs from a strictly business perspective and formulate their bids the first time to meet the requirements. Allowing the MEO to reexamine proposed operating structures and budgets perpetuates Government performance of commercial activities without any real competition.

#### **H. CREATION OF THE PERFORMANCE WORK STATEMENT**

By the sheer number and nature of statements made in the broad spectrum of sources examined, the PWS is by far the most important task in an A-76 study. The creation of the PWS occupies the majority of the time for most team members early in the process. Failure to adequately construct the PWS will almost certainly lead to unhappy customers. The result will be contract modification and price escalation, eliminating projected savings.

One of the significant points brought out in the responses to the surveys was the need to have the PWS

reflect the scope and amount of work currently performed in an activity. The urge to add work should be avoided, even if the command would benefit from such actions. The urge to add work should be avoided on the grounds that it opens the potential for protests or other legal action. The contractor in such a case would bid on the inflated PWS, while the Government, utilizing Activity Based Costing, would construct it's MEO around the level of work currently done.

In constructing the PWS, the contracting officer should play the role of trusted advisor to the A-76 manager. The contracting officer is most familiar with the technical requirements for a PWS, and is in the best position to advise an IPT constructing the PWS. This will necessitate that the contracting officer be involved in the A-76 study process from the very beginning.

In constructing the PWS, very little information has been given to aid commands in developing the PWS. Again, it is beneficial to adapt practices from major systems acquisitions for A-76 studies. In this case, a modified version of a work breakdown structure for major systems is one solution. In the case of A-76 studies, the program office could layout the major sub-components of a commercial activity and break them down to an appropriate level,



similar to work breakdown structures for major weapon systems. Once the work breakdown is completed, the team could rebuild the structure, validating requirements as they worked up to the major components of the commercial activity.

Verification of PWS is another critical issue that must be addressed by the contracting officer. In verifying the PWS, a number of recommendations were made by the respondents. The adoption of Activity Based Costing (ABC) will aid in the validation of requirements. Without the widespread adoption of ABC, the A-76 team must ensure that technical experts familiar with current Government operations review the PWS. Again, the A-76 team will benefit from having the technical experts interacting on a frequent basis with the activities studied.

#### **I. STAFFING OF SOURCE SELECTION TEAM**

The staffing of the Source Selection Evaluation Board (SSEB) and the Source Selection Advisory Council (SSAC) are critical decisions to which the contracting officer should have input. The role of the contracting officer in this area should be to ensure assignments to the SSEB and SSAC do not impose conflicts of interest for Government employees or violation of legal requirements. The Comptroller General case presented in Chapter III highlighted the outcome of a



protest where the Government did not ensure that its evaluators were beyond reproach. In failing to identify conflicts of interest, the contracting officer placed the integrity of the source selection process in jeopardy. The actions of the SSEB necessitated restarting an acquisition process at the solicitation stage. It also allowed members of the Government to evaluate contractor proposals, when they should not have had access to them. The potential existed here for Government employees to unfairly aid the team developing the MEO by providing insight into contractor approaches to the PWS.

In light of the actions taken at Wright Patterson Air Force Base, it is incumbent upon the contracting officer to work with the A-76 program manager to ensure that this situation does not arise. One of the respondents stated in their lessons learned that the command should compile a conflict of interest database, containing names of employees forbidden from working on A-76 studies. This should be one of the first steps taken by the program manager when the A-76 study team is established. Along with compiling a list of desired personnel for the team, the program manager should also develop a list of "undesirable" people with potential or real conflicts of interest. The program office should secure the services of military lawyers familiar with

contracting statutes to aid in scrubbing the "desirable" and "undesirable" lists.

#### **J. RISK IDENTIFICATION AND MANAGEMENT**

Of all the areas of research, risk identification and management appears to offer the greatest opportunity to aid Marine Corps Contracting Officers in conducting A-76 studies. However, in reviewing all available data, the area of risk identification and management of competitive sourcing has the least amount of published data. The little amount of data available addressed risk management outsourcing in the purely commercial world. This thesis research intended to fill this information gap from responses to the survey. Unfortunately, one fourth of the survey respondents that did not provide data on risk identification and management. Of the respondents that answered this question, the risk identified included the reaction of Government employees upon learning that their jobs were going to be competitively sourced. Although this traumatic situation for Government employees should be one of many concerns for a contracting officer, it should not be primary.

A number of commands listed the Performance Work Statement as a risk factor. Of those commands that were contacted, an overwhelming majority considered this to be

the primary risk area to be addressed. What was lacking in the responses were the steps that particular commands took to manage this risk factor and mitigate it wherever possible. It was expected that commands would respond with a system similar to the work breakdown structure approach presented earlier along with a validation method, but that was not the case.

Along with the development of the PWS there was some concern regarding "gold plating" the requirements. Although, not specifically stated in these terms, "gold plating" does pose a significant risk to the competitive sourcing team and the contracting officer. It opens up the command to potential protests from the contractor and the MEO as previously pointed out in this chapter.

The issue of contract bundling or omnibus contracts was not mentioned by any of the respondents among the risk factors that contracting officers face. In the case where a command is competitively sourcing a number of related activities, it would make sense to lump them into one contract to maximize economies of scale. This is especially true in cases where award fee contracts are utilized, and are required to generate savings in excess of administration costs. Omnibus contracts are similar in fashion, as they

cover potentially several categories of services that may or may not be related.

The drawback with services contract bundling and omnibus contracts is the potential to exclude small or disadvantaged firms from entering the competition. The following is Government policy regarding the use of small business firms as outline in FAR 19.201:

It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small business, HUB Zone small business, small disadvantaged business, and women-owned small business concerns. Such concerns shall also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any executive agency, consistent with efficient contract performance. [Ref. 26]

In addition to the policy outlined for small businesses, the Javits-Wagner-O'Day Act (JWOD) requires the purchase of services from nonprofit organizations participating in the JWOD program, typically the National Institutes for the Blind or Severely Handicapped[Ref. 26]. Federal Acquisition Regulation 8.704 sets the precedence for acquiring services, first from JWOD firms, then the Federal Prison Industries, Inc. or commercial sources. [Ref. 26]

Contracting Officers run the risk of operating counter to Government policy if contract bundling or omnibus contracts exclude participation of the above mentioned

firms. This must be balanced with agency requirements to maximize the benefits of competitive sourcing. A possible solution for the contracting officer could be to issue a draft solicitation for industry comment. This would allow the contracting officer the luxury of seeing if the above listed mandatory sources of supply would be willing to participate in the competition. Secondary benefits of this step would include feedback on the PWS, which is likely in the final stage of development. There is also the potential of subcontracting to meet legal requirements. In the case of large contracts, the A-76 team may want to address the feasibility of having a primary and a diversified number of subcontractors. This would provide the potential for small or disadvantaged firms to participate in the competition.

The risks during the solicitation phase of competitive sourcing studies are virtually identical to those of other procurements. Two critical problem areas include improper communications with the offerors, both contractors and the MEO, and having the source selection procedures not mirror the standards set in the solicitation. Both of these risks can be managed in ways very similar to other procurements. In the case of communications with the MEO, as was pointed out earlier in the chapter, the contracting officer should



be aware of the potential for "technical leveling" and tailor comments to the MEO appropriately.

The greatest risk area in the Award phase of the competitive sourcing study is improper cost comparison. Recently, Army officials at the Aberdeen Proving Grounds reversed a decision to award a contract to a joint venture firm for services at the installation. The reversal came after an appeals process, which resulted in a revised cost estimate, with the MEO eventually winning by a margin of \$1.8 million. [Ref. 27] This is probably the worst case scenario a contracting officer could face. It is likely that the commercial contractor in this case will appeal the termination of the contract and seek compensation. This case reiterates the fact that the contracting officer should adhere strictly to the cost comparison steps outlined in OMB A-76.

Post-award risks for competitive sourcing are also very similar to those in other contracting actions. There is an increased risk in one area in particular that the contracting officer must manage: the potential for unauthorized changes to the contract. As more services are contracted out at Marine Corps installations, the frequency of contact between Marines and contract employees increases. This increases the possibility for unauthorized Marines to



direct contract employees to perform work outside of the scope of the contract. Contracting officers can manage this risk by working with Contracting Officer Technical Representatives (COTR), and Marine commands to instruct Marines on appropriate interaction with contractors. It must be made clear to commands residing on the base that only the contracting officer, not the COTR, commanding officers, Marines or civilian employees, is authorized to change the scope of the contract.

Risk of protests is something every contracting officer must face. Management of this risk is rather simple as was illustrated in the Comptroller General decisions provided in Chapter III. This risk is managed by following the procedures established in the solicitation. This requires that the evaluation criteria stated in the solicitation be utilized in the source selection process. Deviations from these criteria will result in protests or worse yet, overturning contract awards.

#### **K. SUMMARY**

This chapter analyzed the data presented in the previous chapter. Analysis focused on all aspects of the competitive sourcing process to which contracting officers are exposed. In certain areas, alternate methods of conducting A-76 studies were examined, with the goal of

improving the performance of the study team. In cases where the researcher thought survey responses and available data failed to adequately address a topic, information was provided based upon the logic and procedures of defense acquisition and contracting. The next chapter will present the conclusions and recommendations resulting from this analysis.

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## V. CONCLUSIONS AND RECOMMENDATIONS

### A. INTRODUCTION

The process of conducting commercial activities studies utilizing the guidance provided in OMB Circular A-76 is difficult. Numerous factors present challenges and risks to major commands, installation commanders, contracting officers and civilian employees. The resurgence of competitive sourcing in the Department of Defense has necessitated that installations and specifically, their contracting officers, fully understand the complexity in conducting a commercial activity study and competition. The ability to draw upon previous commercial studies and maximize the use of available information from both positive and negative lessons learned is vital.

Given the trend in declining defense budgets, it cannot be assumed that competitive sourcing will fade away, nor will the defense budget increase dramatically in the near future. Therefore, it is incumbent upon the Services to implement sound management structure and techniques in the conduct of their competitive sourcing studies. Failure to implement sound management teams and processes will result in studies that are behind schedule, over budget, and fail

to develop comprehensive Performance Work Statements that meet the needs of the customer. Under these conditions, the likelihood of protests or contractor failure increases. Such conditions are unacceptable to the Services as they have already programmed the cost savings expected from competitive sourcing into future year budgets.

## **B. CONCLUSIONS**

The scope of this research led to a number of conclusions regarding the conduct of competitive sourcing studies within the Armed Services.

**Conclusion 1. Office of Management and Budget Circular A-76 needs to be modified to reflect current trends in acquisition reform.**

There are a number of areas that need to be updated in OMB A-76 to reflect reform actions in the acquisition community. The circular needs to be modified to include instructions on how to capture data on the cost and past performance of the Government organization under study. Ideally, the same type of information contracting officers gather on commercial firms should be gathered on the Government activity. This information could then be used as part of a "Best Value" determination in a MEO and contractor comparison. For a best value decision to occur, A-76 will need to be modified (in implementation) to allow for award

of a contract on conditions other than price, as is currently the practice. This would require DoD to treat competitive sourcing actions as private firms do, by making decisions based on what is best for the business, not necessarily on which competitor is the cheapest.

**Conclusion 2. There is still dispute within the Services as to what functions are inherently Governmental in nature.**

The comparison of different announcements from each of the Services shows no clear consensus as to what functions are or are not commercial in nature. The majority of activities designated as commercial by the Services are in line with those detailed in OMB A-76. There continues however, to be a relatively small number of activities that are still closely guarded by one Service or another. On top of that are legislative restrictions that add more services to this list. From the survey responses it is apparent that a number of major commands in the Services are consolidating their lists of commercial services to eliminate differences that may have existed from installation to installation. The requirements of the FAIR Act may eventually bring about a consolidated DoD list detailing commercial activities.



**Conclusion 3. The current management style of commercial activity studies can be improved to meet the needs of the Services.**

It is evident from the data that the management style utilized currently in a number of cases is ineffective in meeting the requirements outlined in A-76 and expected from the Services. Incidents of protests, contract cancellation and studies being behind schedule indicate the management of competitive sourcing studies can be improved through process innovation. There are a number of cases where the management of the studies was ideal and the activities competitively sourced in line within programmed timeframes. However, that has not been the case every time. The use of integrated product teams is a step in the right direction, but will not work on its own. The assignment of an A-76 program manager is the next logical step beyond the IPT.

**Conclusion 4. The risk management process is applied inconsistently across the contracting community in regards to A-76 studies.**

From the research, it appears that the contracting community is inconsistently applying the risk management process to A-76 studies. A number of commands stated in their survey responses that they did not identify any risks

that would originate from the A-76 process. In those commands that did respond with risks associated with A-76 studies, a number chose to focus on the reactions of Government employees. Because many risks are present, this indicates that commands are failing to adequately examine the A-76 process to search out and manage risks.

**Conclusion 5. There is no centralized database containing information on best practices and lessons learned from completed competitive sourcing studies.**

In conducting this research it became evident that there is no centralized location containing information on previous A-76 studies. There is some information on the Internet concerning the conduct of A-76 studies and lessons learned from previous studies, but it is far from complete. The problem is that not every service has information available, and those that do have it spread across the World Wide Web.

## **C. RECOMMENDATIONS**

**Recommendation 1. Change OMB Circular A-76 to incorporate acquisition reform initiatives.**

The Office of Management and Budget should adopt changes in Circular A-76 to define practices for capturing cost and past performance data on commercial activities

currently performed by Government employees. The changes should allow for the capture of data similar in nature to data collected on commercial firms under contract with the Government. As part of capturing past performance data, OMB should amend the circular to include provisions allowing for the incorporation of past performance data into the evaluation criteria for making a contract award. In addition to the cost comparison, contracting officers should be given the latitude to evaluate competitor past performance, technical approaches, management plans and other relevant factors. This should culminate in the contracting officers being allowed to award contracts to organization capable of providing the best overall value to the Government.

**Recommendation 2. That the Department of Defense establish and maintain a database of best practices and lessons learned from completed A-76 studies.**

The Department of Defense should establish a database accessible through the Internet containing information on lessons learned from completed A-76 studies. The database should be resident within the Acquisition Web homepage maintained by the Under Secretary of Defense for Acquisition and Technology. Services should be required to submit their input at the end of each completed study. The primary focus

of the information resident in the database should be A-76 study management and contracting issues, to include lessons learned, as well as best practices on developing Performance Work Statements.

**Recommendation 3. The Department of Defense should establish waiver procedures which installation commanders can utilize to protect commercial activities they deem mission critical.**

Waiver procedures to OMB A-76 should be established, which installation commanders can use to protect commercial activities they deem to be mission critical. The research highlighted that there was some difference across the Services in the interpretation of OMB A-76 in regards to which services are commercial in nature. However, the research did not indicate that these differences were a problem at the present time. The FAIR Act of 1998 requires the Services to consolidate their list of commercial activities. There is the potential for the Services to retain the decision authority for commercial determination at a level that would limit the flexibility of the installation commander. By allowing the installation commanders to tailor competitive sourcing studies to the current conditions at their installation, the process has a

greater chance of delivering the desired service and cost savings.

**Recommendation 4. The Marine Corps should adopt a program management approach for the conduct of A-76 studies.**

Where appropriate, Marine Corps Installation Commanders should adopt a program management approach for the conduct of A-76 studies. The program management approach should closely mirror processes for development and procurement of major weapon systems. As such, installation commanders should designate a program manager and empower that person with broad authority.

The establishment of a quasi program office for A-76 studies at installations would greatly facilitate the accomplishment of the task. Foremost, it would establish unity of command by having one individual responsible to the installation commander for the conduct of all competitive sourcing studies. As for other program managers, this individual would be responsible for everything that is done on the A-76 study as well as for successes, weaknesses and failures in the program. The installation would benefit from having a focused group leader working on A-76 studies. Since the timeline for completing studies are a critical factor, program managers could focus on the metrics involved in tracking the progress of the commercial study. They



would be responsible for establishing study timelines, program metrics for tracking progress, and retain sole authority to approve deviations from the study schedule. They could identify risk areas that have the potential to cause slippage in the schedule and take action to manage and mitigate risks. An example of a tracking method is a modified Earned Value Management System. The A-76 program manager could track the progress of the study relative to the established timeline and budget for completing the study.

#### **D. REVIEW OF RESEARCH QUESTIONS**

**The primary research question: "What are the significant issues that Marine Corps Contracting Officers face when applying OMB Circular A-76 to the outsourcing of installation support services, and how might they manage these issues?"**

Marine Corps Regional Contracting Officers face the dilemma of playing a major role in the conduct of A-76 studies that are unpopular amongst the civilian workers on the base. They are faced with facilitating a process that has deadlines tied to reductions in the operating budgets of the installations, and has historically taken longer to complete than anticipated. This is combined with



instructions within OMB A-76 that do not allow for contracting decisions for acquiring services from competing firms based on a best value basis vice awarding contracts to the competitor with the lowest price. Add to this the risks associated with undertaking a competitive sourcing process not attempted in the Marine Corps in almost a decade.

The solution to the majority of issues that Marine Corps Contracting Officers will face is to "think and operate outside of the box" where appropriate. They should search for ways to inject an acquisition approach into the A-76 process that reflects current trends in acquisition reform. They should act as advisors to the installation commander on conceptual issues related to program management of A-76 studies and contracting to maximize the value of the A-76 process.

**Subsidiary Research Questions 1: What are the policies and procedures prescribed in OMB Circular A-76 for outsourcing of inherently non-Governmental functions.**

The guiding principle within OMB Circular A-76 is the belief that the United States Government should not compete with the private sector to provide goods and services that are commercial in nature. As such, A-76 provides guidance as to which functions are considered commercial in nature.

The circular describes the conditions under which

activities can either be directly converted to a contractor or where competition between the Government and a contractor is warranted. It describes the steps that must be taken in an A-76 study, to include:

- Development of a Performance Work Statement
- Conduct of a Management study to develop the Governments Most Efficient Organization
- Development of the in-house Government cost estimate
- Conduct of a Cost Comparison between the MEO and lowest priced responsible and responsive bidder

**Subsidiary Research Questions 2: What is the nature and scope of installation support services that are currently being outsourced in the DoD?**

The nature and scope of installation support services currently outsourced varies across the Services and their installations. The range of services included contracts that cover entire base operations, to those covering a single activity on a single installation. In reviewing a large number of completed and ongoing competitive sourcing studies, a number of services have been sourced by multiple installation and include the following:

- Family Housing Operation and Maintenance
- Base Operating Support

- Base Communications
- Utilities and Heating
- Library Services
- Base Supply
- Grounds Maintenance

**Subsidiary Research Questions 3: Is there a common family of installation support services across DoD, which is currently being outsourced, and if so, what services comprise that family?**

There is no common family of installation support services across DoD that are currently outsourced. There are a number of services that have been outsourced by more than one installation and Service, as pointed out in answering the previous question. However, there is no data to support the conclusion that the services highlighted in the previous question comprise a common family of competitively sourced services.

**Subsidiary Research Questions 4: What are the significant lessons learned from the outsourcing efforts that will be applicable to Marine Corps outsourcing of installation services?**

A number of significant lessons have been learned by contracting officers conducting A-76 studies. The

development of a sound and comprehensive Performance Work Statement ranks at the top of the list. Contracting officials from the Services generally agree that this single aspect of the A-76 study will dictate the success of command efforts to reduce cost associated with the contracting commercial activities.

Second in priority is the conduct of competition between the MEO and contractor. Protests have shown that contracting officers must operate within the boundaries established in OMB Circular A-76, and the solicitation and source selection plan. Failure to conduct cost comparisons within the stated guidelines will almost certainly result in protests by any number of different parties.

The manning and conduct of the A-76 team rounds out the list of significant lessons learned from previous competitive sourcing efforts. Contracting officials must ensure that personnel who may have a conflict of interest are prohibited from sitting on source selection boards or technical evaluation teams.

**Subsidiary Research Questions 5: What are the significant risk factors identified in the contracting of services and how might these risks be mitigated by Marine Corps Contracting Officers?**

A number of risks are associated with competitively

sourcing commercial activities at Marine Corps installations. The principle risk is that the PWS does not capture all of the work currently performed by the Government. This impacts the contracting officer as he has to amend the contract to include work not in the original PWS and work changes may negate anticipated savings. Another risk factor is that the chosen contract type will not meet the needs of the customer and may prove ineffective in motivating the contractor to meet performance and cost savings goals. A final risk factor that contracting officers must contend with is the possibility of unauthorized changes to the contract by Marines working in close proximity with contractors.

The management of these risks depends on communication between the contracting officer, A-76 program office, installation commander and the customer. Each must understand the needs and goals of each of the stakeholders to comprehend the impact of all decisions made in relation to competitive sourcing. Open communication will help to reduce the chances of failure to manage the risks identified in this research.

#### **D. AREAS FOR FURTHER RESEARCH**

This thesis examined recent DoD competitive sourcing studies in a limited scope. Suggested topics for further

research on competitive sourcing include:

- Development of a program management model applicable to the conduct of A-76 studies. Where practical, the model would mirror the program management model and tools used in the acquisition of weapon systems. This would move toward a management approach to mitigate a number of risks identified in this research.
- Conduct an analysis of the various contract types used in prior competitive sourcing actions. The goal would be to identify contract types that work best with a given set of installation services. Such research could aid contracting officers in choosing appropriate contract types based on lessons learned from previous A-76 efforts.
- Conduct an analysis of cost savings generated by competitive sourcing activities. This analysis would identify whether the Services are meeting their projected goals. Additionally, in cases where the projected savings were not met, it could identify specific reasons why cost savings were less than anticipated.



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## APPENDIX A (DEFINITIONS)

**Affected Parties.**--Federal employees and existing Federal contractors that will or could be impacted by a decision to waive a cost comparison or have submitted bids to convert to or from in-house, contract or ISSA performance, as a result of a cost comparison, and their representatives are affected parties. Agencies or parts of agencies that have submitted formal bids or offers, in order to compete for the right to provide services through ISSAs, are also considered affected parties.

**Best Value.** -- The expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement.

**Commercial activity.**--A commercial activity is the process resulting in a product or service that is or could be obtained from a private sector source. Agency missions may be accomplished through commercial facilities and resources, Government facilities and resources or mixes thereof, depending upon the product, service, type of mission and the equipment required.

**Commercial source.**--A commercial source is any business or other concern that is eligible for contract award in accordance with Federal Acquisition Regulations.

**Contract Administration.**--Contract administration includes those inherently governmental activities performed by warranted contracting officers (CO), the contracting officer's technical representatives (COTR), and related payment evaluation staff. Contract administration is not to be confused with contract quality control, performance evaluation or inspection, which are defined as commercial activities by this Supplement and OFPP Policy Letter 92-1.

**Core capability.**--A core capability is a commercial activity operated by a cadre of highly skilled employees, in a specialized technical or scientific development area, to ensure that a minimum capability is maintained. The core capability does not include the skills, functions or FTE that may be retained in-house for reasons of National Defense, including military mobilization, security or rotational necessity, or to the patient care or research and development activities, as provided in Part I, Chapter 1 of this Supplement.

**Cost Comparison.**--A cost comparison is the process whereby the estimated cost of Government performance of a commercial activity is formally compared, in accordance with the principles and procedures of this Circular and Supplement, to the cost of performance by commercial or ISSA sources.

**Exemption.**--An exemption is a determination, made in accordance with Circular A-76 and this Supplement, that a commercial activity may be converted to or from in-house, contract or ISSA performance, without cost comparison and may be justified by reasons other than cost.

**Inherently Governmental Activity.**--An inherently governmental activity is one that is so intimately related to the public interest as to mandate performance by Federal employees. Activities that meet these criteria are not in competition with commercial sources, are not generally available from commercial sources and are, therefore, not subject to Circular A-76 or this Supplement. Guidance to avoid an unacceptable transfer of official responsibility to contract performance may be found in the Office of Federal Procurement Policy (OFPP) Policy Letter 92-1.

**Interservice Support Agreement (ISSA).**--The provision of a commercial activity, in accordance with an interservice support agreement, on a reimbursable basis. This includes franchise funds, revolving funds and working capital funds.

**Management Plan.**--The Management Plan is the document that outlines the changes that will result in the Government's Most Efficient Organization (MEO) to perform a commercial activity in-house. It provides the staffing patterns and

operating procedures that serve as a baseline for in-house cost estimates.

**Most Efficient Organization (MEO).**--The MEO refers to the Government's in-house organization to perform a commercial activity. It may include a mix of Federal employees and contract support. It is the basis for all Government costs entered on the Cost Comparison Form. The Most Efficient Organization (MEO) is the product of the Management Plan and is based upon the Performance Work Statement (PWS).

**Overhead.**--Overhead is included in the in-house estimate and is defined as those costs that are not directly attributable to the activity under study.

**Past Performance.**--Information related to contractor performance on previous contracts for similar activities or services, with a focus on the ability of the contractor to meet cost, schedule and performance requirements.

**Performance Measures.**--Performance measures provide a series of indicators, expressed in qualitative, quantitative or other tangible terms, that indicate whether current performance is reasonable and cost effective. Performance measures can include workload and output-to-cost ratios, transaction ratios, error rates, consumption rates, inventory fill rates, timeliness measures, completion and

back order rates, etc. Quality service measures may include responsiveness rates, user satisfaction rates, etc.

**Performance Standard.**--A performance standard reflects the minimum, sector-specific, Federal requirement for the performance of a commercial activity. It incorporates both quality measures and cost measures. Cost measures reflect the cost comparability procedures of Part II of this Supplement to assure equity in the comparison of performance standards with private industry standards.

**Performance Work Statement (PWS).**--A Performance Work Statement is a statement of the technical, functional and performance characteristics of the work to be performed, identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units. It serves as the scope of work and is the basis for all costs entered on the Cost Comparison Form.

**Post-MEO Performance Review.**--When services are performed in-house, as a result of a cost comparison, including those involving an Interservice Support Agreement, a formal review and inspection of the Most Efficient Organization (MEO) should be conducted. Typically, this review should be conducted following the end of the first full year of



performance. Post-MEO Performance Reviews confirm that the MEO has been implemented in accordance with the Transition Plan, establish the MEO's ability to perform the services of the PWS and confirm that actual costs are within the estimates contained in the in-house cost estimate. Adjustments may be made for formal mission or scope of work changes.

**Preferential Procurement Programs.**--These are special "commercial" source programs, such as Federal Prison Industries and the workshops administered by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act.

**Privatization.**--Privatization is the process of changing a public entity or enterprise to private control and ownership. It does not include determinations as to whether a support service should be obtained through public or private resources, when the Government retains full responsibility and control over the delivery of those services.

**Quality Assurance Surveillance.**--Quality Assurance Surveillance is the method by which Federal employees will supervise in-house or contract performance to ensure that the standards of the PWS are met within the costs bid.

**Start date.**--This term is used in two ways. First, it is the date when a cost comparison begins, generally defined as the date that a local Study Team is formed and actual work on the Performance Work Statement, Management Plan and in-house cost estimate begins. Second, it may refer to the actual date work is scheduled to begin under a contract, as provided in the solicitation.

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**APPENDIX B (EXAMPLES OF COMMERCIAL ACTIVITIES ADAPTED FROM  
OMB CIRCULAR A-76)**

**AUDIOVISUAL PRODUCTS AND SERVICES**

- Photography (still, movie, aerial, etc)
- Photographic processing (developing, printing, enlarging, etc.
- Film and videotape production (script writing, direction, animation, editing, acting, etc.)
- Microfilming and other microforms
- Art and graphics services
- Distribution of audiovisual materials
- Reproduction and duplication of audiovisual products
- Audiovisual facility management and operation
- Maintenance of audiovisual equipment

**AUTOMATIC DATA PROCESSING**

- ADP services - batch processing, time-sharing, facility management, etc.
- Programming and systems analysis, design, development, and simulation Key punching, data entry, transmission, and teleprocessing services
- Systems engineering and installation
- Equipment installation, operation, and maintenance

**FOOD SERVICES**

- Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries
- Vending machines
- Ice and water

**HEALTH SERVICES**

- Surgical, medical, dental, and psychiatric care
- Hospitalization, outpatient, and nursing care
- Physical examinations
- Eye and hearing examinations and manufacturing and fitting glasses and hearing aids

- Medical and dental laboratories
- Dispensaries
- Preventive medicine
- Dietary services
- Veterinary services

#### **INDUSTRIAL SHOPS AND SERVICES**

- Machine, carpentry, electrical, plumbing, painting, and other shops
- Industrial gas production and recharging
- Equipment and instrument fabrication, repair and calibration
- Plumbing, heating, electrical, and air conditioning services, including repair
- Fire protection and prevention service
- Custodial and janitorial services
- Refuse collection and processing

#### **MAINTENANCE, OVERHAUL, REPAIR, AND TESTING**

- Aircraft and aircraft components
- Ships, boats, and components
- Motor vehicles
- Combat vehicles
- Railway systems
- Electronic equipment and systems
- Weapons and weapon systems
- Medical and dental equipment
- Office furniture and equipment
- Industrial plant equipment
- Photographic equipment
- Space systems

#### **Management Support Services**

- Advertising and public relations services
- Financial and payroll services
- Debt collection

## **MANUFACTURING, FABRICATION, PROCESSING, TESTING, AND PACKAGING**

- Ordnance equipment
- Clothing and fabric products
- Liquid, gaseous, and chemical products
- Lumber products
- Communications and electronics equipment
- Rubber and plastic products
- Optical and related products
- Sheet metal and foundry products
- Machined products
- Construction materials
- Test and instrumentation equipment

## **OFFICE AND ADMINISTRATIVE SERVICES**

- Library operations
- Stenographic recording and transcribing
- Word processing/data entry/typing services
- Mail/messenger
- Translation
- Management information systems, products and distribution
- Financial auditing and services
- Compliance auditing
- Court reporting
- Material management
- Supply services

## **OTHER SERVICES**

- Laundry and dry cleaning
- Mapping and charting
- Architect and engineer services
- Geological surveys
- Cataloging
- Training -- academic, technical, vocational
- Specialized Operation of utility systems (power, gas, water steam, and sewage)
- Laboratory testing services



## **PRINTING AND REPRODUCTION**

- Facility management and operation
- Printing and binding -- where the agency or department is exempted from the provisions of Title 44 of the U.S. Code
- Reproduction, copying, and duplication
- Blueprinting

## **REAL PROPERTY**

- Design, engineering, construction, modification, repair, and maintenance of buildings and structures; building mechanical and electrical equipment and systems; elevators; escalators; moving walks
- Construction, alteration, repair, and maintenance of roads and other surfaced areas
- Landscaping, drainage, mowing and care of grounds
- Dredging of waterways

## **SECURITY**

- Guard and protective services
- Systems engineering, installation, and maintenance of security systems and individual privacy systems
- Forensic laboratories

## **Special Studies and Analyses**

- Cost benefit analyses
- Statistical analyses
- scientific data studies
- Regulatory studies
- Defense, education, energy studies
- Legal/litigation studies
- Management studies

## **SYSTEMS ENGINEERING, INSTALLATION, OPERATION, MAINTENANCE, AND TESTING**

- Communications systems - voice, message, data, radio, wire, microwave, and satellite
- Missile ranges
- Satellite tracking and data acquisition

- Radar detection and tracking
- Television systems - studio and transmission equipment, distribution systems, receivers, antennas, etc.
- Recreational areas
- Bulk storage facilities

#### **TRANSPORTATION**

- Operation of motor pools
- Bus service
- Vehicle operation and maintenance
- Air, water, and land transportation of people and cargo
- Trucking and hauling

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**APPENDIX C (INHERENTLY GOVERNMENTAL FUNCTIONS ADAPTED FROM  
OFFICE OF FEDERAL PROCUREMENT POLICY LETTER 92-1)**

1. The control of prosecutions and performance of adjudicatory functions (other than those relating to arbitration or other methods of alternative dispute resolution).
2. The command of military forces, especially the leadership of military personnel who are members of the combat, combat support or combat service support role.
3. The conduct of foreign relations and the determination of foreign policy.
4. The determination of agency policy, such as determining the content and application of regulations, among other things.
5. The determination of Federal program priorities or budget requests.
6. The direction and control of Federal employees.
7. The direction and control of intelligence and counter-intelligence operations.
8. The selection or non-selection of individuals for Federal Government employment.
9. The approval of position descriptions and performance standards for Federal employees.

10. The determination of what Government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency) .
11. In Federal procurement activities with respect to prime contracts,
  - a. determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);
  - b. participating as a voting member on any source selection boards;
  - c. approval of any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;
  - d. awarding contracts;
  - e. administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and

- accepting or rejecting contractor products or services);
  - f. Terminating contracts; and
  - g. determining whether contract costs are reasonable, allocable, and allowable.
12. The approval of agency responses to Freedom of Information Act requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests.
  13. The conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs.
  14. The approval of Federal licensing actions and inspections.
  15. The determination of budget policy, guidance, and strategy.
  16. The collection, control, and disbursement of fees, royalties, duties, fines, taxes and other public funds, unless authorized by statute, such as title 31 U.S.C.



952 (relating to private collection contractors) and title 31 U.S.C. 3718 (relating to private attorney collection services), but not including:

- a. collection of fees, fines, penalties; costs or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard cash management techniques, and

- b. routine voucher and invoice examination.

17. The control of the treasury accounts.

18. The administration of public trusts.

#### APPENDIX D (RESEARCH SURVEY)

The research questions below support thesis research I am conducting on DoD application of OMB Circular A-76 for competitive sourcing (outsourcing) of commercial activities. The goal of the research is to aid Contracting Officers involved in competitive sourcing of commercial activities. The answers you provide will be on a non-attribution basis and will not be linked to specific commands in the thesis. The questionnaire should take about 5-7 minutes to complete.

- 1) Since 1994, how many competitive sourcing studies of commercial activities has your command undertaken?
- 2) Of the commercial activities studied, how many resulted in competition between the Most Efficient Organization (MEO) and a contractor or Inter Service Support Agreement (ISSA)? How many were directly converted?)
- 3) What group within your organization determined which commercial activities would be opened to competition?
- 4) Does your organization have a list of commercial activities that are excluded from competition?
- 5) What was the general nature of services that were competitively sourced (i.e., facilities maintenance, base operations)?
- 6) Within the general category mentioned above, what were the exact services that were competitively sourced

(i.e., painting or plumbing under facilities maintenance)?

- 7) In the case of activities that were competitively sourced, were cost comparisons performed between the Most Efficient Organization and other bidders? If cost comparisons were not performed, why were they not done?
- 8) What lessons did your organization learn to improve its performance and that of the contractors as a result of its competitive sourcing activities?
- 9) Were there any protests lodged as a result of the competition? If there were any protests briefly describe the nature of the protest and the eventual outcome.
- 10) What were the significant risks associated with competitive sourcing process that your organization identified?

Please feel free to add any relevant information that you think would be beneficial to the researcher.

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